

To: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 12/21/2009 6:25:06 PM
Subject: Re: BPA

Yup

----- Original Message -----

From: Bob Perciasepe
Sent: 12/21/2009 12:18 PM EST
To: Peter Grevatt
Cc: Bob Sussman; Diane Thompson; Jim Jones; Richard Windsor; Seth Oster; Steve Owens
Subject: Re: BPA

I would tend to agree with Peter as a general matter. Obviously the devil will be in the details of what the set up would be. But a general government wide focus on children's health would seem hard to not support. A set up like the old EO might work fine.

Bob Perciasepe
US EPA
Office of the Administrator
1200 Pennsylvania Ave., ARN
(o)202 564 2410
(c) Personal Privacy

From: Peter Grevatt/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Steve Owens/DC/USEPA/US@EPA
Cc: Jim Jones/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA
Date: 12/21/2009 12:01 PM
Subject: Re: BPA

Thanks Bob. I have not heard anything on this idea specific to BPA, but this recommendation (found under # 25 in the attachment) may be a more general recommendation coming from CEQ. Executive Order 13045 established an inter agency childrens health task force chaired by EPA and HHS that was sunset during the last Administration. Many have talked about re-establishing such a group in one form or another and the upcoming GAO report will include this as a recommendation. I think the general concept of an inter agency technical working group on children's environmental health to leverage the expertise of different federal agencies is something we would want to support. I believe the issue here specific to BPA is that we would not want the existence of such a group to limit EPA or others from taking important actions. Please let me know if there is something here I'm missing. Thanks.

Peter Grevatt, Ph.D.

Director, Office of Children's Health
Protection and Environmental Education
U.S. EPA
1200 PA Ave., NW
Mail Code 1107-A

Washington, DC 20460
202-564-8954

Please pardon typos from Blackberry device!

Sent by EPA Wireless E-Mail Services.

----- Original Message -----

From: Bob Sussman

Sent: 12/21/2009 09:54 AM EST

To: Steve Owens

Cc: Peter Grevatt; Jim Jones; Seth Oster; Bob Perciasepe; Diane Thompson; Richard Windsor

Subject: Re: BPA

Copying in the Administrator so she's in the loop. Here's the language in the WH memo:

1. What is the Administration doing to identify and study environmental health problems?
The Administration is forming an Interagency Technical Working Group on Children's Environmental Health that will leverage the expertise of different federal agencies to evaluate the latest scientific data on environmental health concerns. This Working Group will coordinate efforts across the government to research and address key environmental health questions.

Deliberative

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

From: Steve Owens/DC/USEPA/US

To: Sussman.Bob@epamail.epa.gov, Jones.Jim@epamail.epa.gov, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Peter Grevatt" <Grevatt.Peter@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>

Date: 12/20/2009 07:26 PM

Subject: Re: BPA

Bob,

In response to your question re the Interagency group, here's another copy of the email I sent to you yesterday containing my questions back to the WH about it. The workgroup was being pushed by the PIO for HHS a couple of weeks ago, but at the time no one seemed to think it made any sense. It seemed dead, but apparently it has been resurrected.

Deliberative

Deliberative

----- Original Message -----

From: Steve Owens

Sent: 12/19/2009 11:34 AM EST
To: Bob Sussman; Jim Jones
Subject: Fw: BPA
Fyi re the current WH work on BPA. I will send the document separately.

----- Original Message -----
From: Steve Owens
Sent: 12/19/2009 11:30 AM EST
To: "McCarthy, Nell" [Personal Privacy]
Cc: "Guzy, Gary S." [Personal Privacy] "Buffa, Nicole" [Personal Privacy]
Subject: Re: BPA
Hi Nell,

I have a couple of questions/comments.

First, which agencies would be participating in the Interagency Technical Working Group mentioned in #25 and what would be the scope of the group (i.e., just BPA or all substances that potentially affect children)?

Second, #31 omits reference to EPA's concern about the environmental effects. I assume that is because this Q & A is focused on the health concerns for children(?). EPA wants to move forward on the environmental effects of BPA, after the FDA announcement is made of course.

Thanks.

Steve

From: "McCarthy, Nell" [Personal Privacy]
To: <JMSHarp1@fda.hhs.gov>, Steve Owens/DC/USEPA/US@EPA, <cfalvey@cpsc.gov>, <David.Lazarus@osec.usda.gov>, "Guzy, Gary S." [Personal Privacy] "Buffa, Nicole" [Personal Privacy]
Cc: "Cuellar, Mariano-Florentino" [Personal Privacy] "Pope, David F." [Personal Privacy]
Date: 12/18/2009 05:11 PM
Subject: BPA

All-

Attached is a revised set of BPA recommendations and Q&A. Please let me know if you have any comments.

Thanks,
Nell

[attachment "BPA v5.doc" deleted by Steve Owens/DC/USEPA/US]

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 12/21/2009 6:26:19 PM
Subject: Re: Rapanos Guidance

Cool !

----- Original Message -----

From: Bob Sussman
Sent: 12/21/2009 12:16 PM EST
To: Richard Windsor
Cc: Peter Silva; Cynthia Giles-AA; Scott Fulton; Avi Garbow; Bob Perciasepe; Arvin Ganesan
Subject: Rapanos Guidance

Lisa -- OW and OECA, with strong support from OGC, have developed some promising recommendations for new guidance that would improve our ability to make expeditious and efficient jurisdictional determinations for water bodies under the Rapanos decision. The guidance would modify guidance issued by the Bush Administration by building on some concepts that were agreed to by EPA and COE but rejected by CEQ at the end of the Administration. This guidance would not eliminate the need for legislation but would provide valuable flexibility to EPA and the COE while we are waiting for legislation. To move forward with guidance would require substantial interagency coordination, including discussions with CEQ. It would also require discussions with the Hill, particularly on the House side. I will be convening a small meeting to update you on the legislative situation with WOUS and discuss how we might move forward.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 12/21/2009 9:58:45 PM
Subject: Re: Call with Senator Voinovich

We have done all we could. The level of general rancor on the Hill is very high.

----- Original Message -----

From: Bob Perciasepe

Sent: 12/21/2009 04:48 PM EST

To: Richard Windsor

Cc: "David McIntosh" <mcintosh.david@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>

Subject: Re: Call with Senator Voinovich

Thank you.

I am hopeful.

Bob

Bob Perciasepe

Office of the Administrator

(o)202 564 4711

(c) **Personal Privacy**

----- Original Message -----

From: Richard Windsor

Sent: 12/21/2009 02:38 PM EST

To: Bob Perciasepe

Cc: "David McIntosh" <mcintosh.david@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>

Subject: Call with Senator Voinovich

Went well. He asked about a few other things but the good news is that he agreed to lift the hold and confirmed that his staff would call the Republican Cloakroom today to tell them that he no longer has a hold. Fingers crossed. Lj

To: CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/22/2009 8:57:54 PM
Subject: Re: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

Sigh!

----- Original Message -----

From: David McIntosh
Sent: 12/22/2009 03:52 PM EST
To: windsor.richard@epa.gov; thompspn.diane@epa.gov; fulton.scott@epa.gov; ganesan.arvin@epa.gov; oster.seth@epa.gov; mccarthy.gina@epa.gov; heinzerling.lisa@epa.gov; brooks-lasure.allyn@epa.gov; perciaspe.bob@epa.gov
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge
FYI. Please don't forward. There's a lot of information here. One piece of it is that the Murkowski anti-endangerment measure will actually receive a vote on January 20 as an amendment to the bill to lift the debt ceiling. The amendment will need 60 votes in order to be adopted. I am now trying to find out how much flexibility Murkowski will have in the drafting of her amendment (i.e., must it be styled as a resolution of disapproval under the Congressional Review Act, or could she actually style it as an amendment to the Clean Air Act).

----- Forwarded by David McIntosh/DC/USEPA/US on 12/22/2009 03:47 PM -----

From: "Miller, Chris (Reid)" <Chris_Miller@reid.senate.gov>
To: David McIntosh/DC/USEPA/US@EPA
Date: 12/22/2009 03:38 PM
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

This will be ugly

Sent from my BlackBerry Wireless Handheld

From: Engle, Tricia (DPC) <Tricia_Engle@DPC.SENATE.GOV>
To: D-FLOOR@LISTSERV.SENATE.GOV <D-FLOOR@LISTSERV.SENATE.GOV>
Sent: Tue Dec 22 15:33:03 2009
Subject: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

The Senate has entered into the following agreement:

If cloture is invoked on HR 3590 tomorrow, all post-cloture debate time will be considered expired at 8:00am Thursday, December 24 and the Senate will proceed to vote on passage of the bill, as amended.

Please note, that this agreement is in addition to the votes with respect to points of order, adoption of the Reid Substitute amendment, and cloture on the underlying bill. Those votes are expected to begin at approximately 3:20pm tomorrow, Wednesday, December 23.

Upon disposition of HR 3590, the Senate will proceed to the immediate consideration of H.R. 4314, an act to permit continued financing of government operations, with no amendments in order. The Senate will then proceed to vote on passage of the bill. Passage of HR 4314 will require 60-affirmative votes.

Therefore, there will be 2 votes at 8am Thursday, December 24:

- Passage of HR 3590, as amended
- Passage of HR 4314, government operations (60 vote threshold)

On Wednesday, January 20, 2010, at a time to be determined by the Majority Leader, following consultation with the Republican Leader, the Finance Committee will be discharged of H.J.Res. 45, Increasing the statutory limit on the public debt, and the Senate will proceed to the measure. Senator Reid or his designee will be recognized to offer a substitute amendment. The following are the only amendments in order to the joint resolution:

- Thune-TARP
- Murkowski-Endangerment EPA regs
- Coburn-Rescission package
- Sessions-spending caps
- McConnell-relevant to any on list
- Reid-relevant to any on list
- Reid-paygo
- Baucus-3 relevant to any on list
- Conrad-Gregg-fiscal task force

Each of the listed amendments will be subject to an affirmative 60-vote threshold. Upon disposition of all amendments, the substitute amendment, as amended, if amended, will be agreed to; the joint resolution, as amended, will be read a third time and the Senate then proceed to vote on passage, with passage subject to a 60-vote threshold.

Further, on Wednesday, January 21, 2010, after a period of morning business, the Senate will proceed to Executive Session to consider the nomination of Beverly Martin to be a U.S. Circuit Judge for the 11th Circuit. There will be 60 minutes of debate with respect to the nomination with the time equally divided and controlled between Senators Leahy and Sessions or their designees. Upon the use or yielding back of time, the Senate will proceed to vote on confirmation of the nomination.

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 1:58:12 PM
Subject: Re: Potential hydraulic fracturing announcement coming out of R2
Ganesan.Arvin@epa.gov

I think it is important to ensure we support best science here. I respect the Region's technical staff and just want to ensure that no political gloss is being applied here.

From: Arvin Ganesan
Sent: 12/23/2009 08:27 AM EST
To: Bob Sussman
Cc: Bob Perciasepe; Diane Thompson; Richard Windsor; Seth Oster
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

Ill forward the number shortly to you, bob. Here's their description.

The New York State Department of Environmental Conservation's (DEC) has prepared a draft supplemental generic environmental impact statement for expanded natural gas drilling in the Marcellus Shale, with a public comment period that closes on December 31. Region 2 has prepared extensive comments, which we plan to submit next Tuesday, in advance of the deadline. NYC will release its comments tomorrow, which is likely to generate interest in our position. We are prepared to make a general statement tomorrow and say we will be submitting comments next week. We are working on a press release. At Arvin's request, we are trying to schedule a call with our RA Judith Enck and division director, Barbara Finazzo, for 3:00 pm. tomorrow to discuss. They are fully aware of upcoming national plans for a study and believe that our comments are consistent. We are glad to discuss in more detail. Region 2 plans to recommend that the state significantly expand its analyses and establish a moratorium on drilling in the New York City watershed. Region 2 is urging that the state more carefully, in both the near and long terms, consider of how gas drilling in the Marcellus Shale would impact local air quality, water quality and quantity, public health, greenhouse gas emissions, land development, wetlands and wildlife habitat. Region 2 also hopes DEC will include the state health department as a co-lead on this review in order to ensure that public health concerns and potential impacts from gas drilling are fully understood and addressed during the drilling process

Sent from my Blackberry Wireless Device

From: Bob Sussman
Sent: 12/23/2009 07:05 AM EST

To: Arvin Ganesan
Cc: Bob Perciasepe; Diane Thompson; Richard Windsor; Seth Oster
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

Arvin. Could you provide a call-in number? Also circulate what they sent in advance?

From: Arvin Ganesan
Sent: 12/22/2009 10:22 PM EST
To: Bob Sussman
Cc: Bob Perciasepe; Diane Thompson; Richard Windsor; Seth Oster
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

The call is tomorrow at 3. I just also noticed that in a summary they sent, they plan to urge the state to consider things including greenhouse gas emissions (i suppose direct and indirect) of the permit application. This is breaking new ground if true.

ARVIN R. GANESAN
Deputy Associate Administrator
Congressional Affairs
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

-----Bob Sussman/DC/USEPA/US wrote: -----

To: Arvin Ganesan/DC/USEPA/US@EPA
From: Bob Sussman/DC/USEPA/US
Date: 12/22/2009 10:15PM
cc: Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

Arvin ---

Deliberative

Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator

US Environmental Protection Agency

Arvin Ganesan---12/22/2009 06:21:01 PM---I just got off the phone with Judith Enck, who I learned is planning to do a press release and major

From: Arvin Ganesan/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 12/22/2009 06:21 PM
Subject: Potential hydraulic fracturing announcement coming out of R2

I just got off the phone with Judith Enck, who I learned is planning to do a press release and major press effort around the Regions comments on a State EIS of a hydraulic fracturing project in the New York City watershed, which is due by the end of the year. She wants to highlight the regions comments which basically state that any permits should not be granted by the state until more resources are devoted by the state and more is known about specific water quality impacts of the practice. She is planning to have this release occur either on Thursday or next week. After talking with her, it appears to me that she is attempting to score points with the NY Delegation (who could take this to be a symbol of EPA weighing in on the issue broadly) and also the environmental community.

I have several concerns about this -

Deliberative

Deliberative

Seth and I have a call scheduled with Judith and others tomorrow afternoon to voice our concerns with this strategy with Judith and potentially ask her to hold off on any major announcement. Do you have any feelings on this, and are you comfortable with Seth and I dialing down her press outreach considerably?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Congressional Affairs
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

To: CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 2:07:38 PM
Subject: Re: Chesapeake Events, Announcements

Yes and Yes. Tx!

----- Original Message -----

From: Chuck Fox

Sent: 12/22/2009 07:30 PM EST

To: Richard Windsor

Cc: Diane Thompson; perciasepe.bob@epa.gov; Shawn Garvin; Cynthia Giles-AA; Peter Silva; Allyn Brooks-LaSure; Seth Oster; Arvin Ganesan; Brendan Gilfillan; Bob Sussman

Subject: Chesapeake Events, Announcements

There are several upcoming announcements and events, and we wanted to make sure you were both aware of and comfortable with what appears to be an emerging consensus.

First, we are awaiting OMB approval of a long-anticipated letter on improved state accountability (aka: the "consequences" letter) which will be signed by Shawn and sent to state cabinet secretaries. I have attached the version sent to OMB for your information. This letter tracks earlier commitments this fall, and we do not anticipate any issues at OMB. However, its release has been delayed until next week. Shawn briefed the states today. We plan to release it to the press next Tuesday with a telephone briefing. The draft press release includes reference to your commitment to provide 75% of the new funding (\$11.3M) as state grants (which will more than double their base Chesapeake funding). Press interest is significant and coverage will likely focus on the changing federal-state relationship. We expect some state criticism of EPA's backstop/oversight roles, though we hope to minimize this with the new funding announcement and the consultations.

Second, you are scheduled to join Governors Kaine and O'Malley on Tuesday, January 5th at an event in Northern Virginia to mark your becoming the Chair of the Chesapeake Executive Council. We are not planning any significant announcements. There will be some private time with the Governors in advance of public remarks, which we expect will focus on your commitment to define a new era of federal leadership. You will be thanking Governor Kaine for his leadership and giving him a gift of appreciation. (We heard today that the Governors may be interested in announcing their continued shared commitment to managing blue crabs.)

Third, we are arranging for you to speak to the leading coalition of Chesapeake environmentalists on either Monday, January 11th or Tuesday the 12th. We are considering two potentially newsworthy announcements: 1) a summary of EPA enforcement activities over the past several months to demonstrate EPA's renewed commitment; and, 2) specific timelines and mechanisms for Chesapeake regulatory actions on CAFOs and urban/suburban stormwater. We have discussed this latter item both with Bob P and Bob S, but would welcome the chance to discuss it with you as well. Both of these announcements will be very well received by this audience and will likely generate some press attention.

(We have not yet confirmed your attendance with the environmentalists, nor have we made any commitments about potential announcements. It is my understanding that OECA and OW are interested and able to meet this deadline.)

We considered several different permutations of these various events and announcements. This scenario seems to work best. You will likely want to use some of your private time with the Governors to get their input on "federal leadership" and telegraph some of our expected actions over the next year.

Does this make sense? Would like us to find some time to brief you in advance of the January 5th meeting with the Governors?

Happy Holidays!

Chuck

[attachment "Accountability Letter to OMB.doc" deleted by Richard Windsor/DC/USEPA/US]

J. Charles Fox

Senior Advisor to the Administrator

Environmental Protection Agency

410 Severn Avenue, Ste 109

410-267-5730

410-267-5777 (f)

To: CN=Steve Owens/OU=DC/O=USEPA/C=US@EPA[]
Bcc: "Heidi Ellis" [Ellis.Heidi@epamail.epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 2:13:40 PM
Subject: Re: Status of Action Plans

Thanks Steve. Have a safe trip and a wonderful New Year.

I am sorry I missed our one on one the other day. I have been fighting a horrible cold and trying to prevent it from turning into something even worse like pneumonia or bronchitis.

I'd like to have breakfast or dinner when you are back in town. I want to reassure you that we at EPA will fight for your program and your needs. I am frustrated myself at your treatment at OMB and want to make sure you are getting the support you need.

Have a wonderful holiday break.

Lisa

----- Original Message -----

From: Steve Owens

Sent: 12/22/2009 05:54 PM EST

To: Bob Sussman; Bob Perciasepe; Richard Windsor; Lisa Heinzerling

Subject: Status of Action Plans

I just spoke to Cass. He said that he is pushing his staff to get the action plans done, but they will not be able to get anything to us tonight. He said that he was "confident" that we would get OMB's comments "early tomorrow afternoon, at the latest."

He said that OMB would have comments on the plans, which he called "reasonable suggestions about how to improve the plans."

I will be traveling to AZ tomorrow, but I will have my staff forward the OMB comments to Bob S. and Lisa H. as soon they arrive. I will be reachable on my blackberry tomorrow evening and Thursday to discuss the OMB comments, as well as the strategy going forward: **Personal Privacy**

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 2:20:51 PM
Subject: Re: Potential hydraulic fracturing announcement coming out of R2
Ganesan.Arvin@epa.gov

Yup

----- Original Message -----

From: Arvin Ganesan
Sent: 12/23/2009 09:01 AM EST
To: Richard Windsor
Subject: Re: Potential hydraulic fracturing announcement coming out of R2
Can we discuss this off-line? Either at the am meeting or afterwards?

ARVIN R. GANESAN
Deputy Associate Administrator
Congressional Affairs
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

From: Richard Windsor/DC/USEPA/US
To: Arvin Ganesan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Date: 12/23/2009 08:58 AM
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

I think it is important to ensure we support best science here. I respect the Region's technical staff and just want to ensure that no political gloss is being applied here.

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press release. At Arvin's request, we are trying to schedule a call with our RA Judith Enck and division director, Barbara Finazzo, for 3:00 pm. tomorrow to discuss. They are fully aware of upcoming national plans for a study and believe that our comments are consistent. We are glad to discuss in more detail. Region 2 plans to recommend that the state significantly expand its analyses and establish a moratorium on drilling in the New York City watershed. Region 2 is urging that the state more carefully, in both the near and long terms, consider of how gas drilling in the Marcellus Shale would impact local air quality, water quality and quantity, public health, greenhouse gas emissions, land development, wetlands and wildlife habitat. Region 2 also hopes DEC will include the state health department as a co-lead on this review in order to ensure that public health concerns and potential impacts from gas drilling are fully understood and addressed during the drilling process

Sent from my Blackberry Wireless Device

From: Bob Sussman
Sent: 12/23/2009 07:05 AM EST
To: Arvin Ganesan
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ARVIN R. GANESAN
Deputy Associate Administrator
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(p) 202.564.5200
(f) 202.501.1519

-----Bob Sussman/DC/USEPA/US wrote: -----

To: Arvin Ganesan/DC/USEPA/US@EPA
From: Bob Sussman/DC/USEPA/US
Date: 12/22/2009 10:15PM
cc: Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Subject: Re: Potential hydraulic fracturing announcement coming out of R2

Arvin	Deliberative
Deliberative	

Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Arvin Ganesan---12/22/2009 06:21:01 PM---I just got off the phone with Judith Enck, who I learned is planning to do a press release and major

From:
Arvin Ganesan/DC/USEPA/US

To:
Richard Windsor/DC/USEPA/US@EPA

Cc:
Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA

Date:
12/22/2009 06:21 PM

Subject:
Potential hydraulic fracturing announcement coming out of R2

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I have several concerns about this -

Deliberative

Deliberative

Seth and I have a call scheduled with Judith and others tomorrow afternoon to voice our concerns with this strategy with Judith and potentially ask her to hold off on any major announcement. Do you have any feelings on this, and are you comfortable with Seth and I dialing down her press outreach considerably?

Thanks.

ARVIN R. GANESAN
Deputy Associate Administrator
Congressional Affairs
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

To: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 3:54:37 PM
Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010
Lisa Jackson
Steven Chu
Nobel Prize
EPA
Supreme Court confirmed in 2007
it's now 422
by 2016
build a new facility or make significant changes to an existing one
Rep. Edward Markey
climate bill
climate bill out of the Senate
Newsmaker of the Year 2009

My.

----- Original Message -----

From: Allyn Brooks-LaSure
Sent: 12/23/2009 10:46 AM EST
To: Brendan Gilfillan; Richard Windsor; "Sussman, Bob" <sussman.bob@epa.gov>; "Fulton, Scott" <fulton.scott@epa.gov>; Diane Thompson; Bob Perciasepe; David McIntosh; Arvin Ganesan; Lisa Heinzerling; Eric Wachter; Robert Goulding
Cc: Adora Andy; "Oster, Seth" <Oster.Seth@epa.gov>
Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010
You beat out Steve Jobs and Vladimir Putin!

MABL.

M. Allyn Brooks-LaSure
Office of the Administrator
U.S. Environmental Protection Agency
Cell: **Personal Privacy**

----- Original Message -----

From: Brendan Gilfillan
Sent: 12/23/2009 10:42 AM EST
To: Richard Windsor
Cc: Allyn Brooks-LaSure; Adora Andy
Subject: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010
Link here:
<http://2010.newsweek.com/top-10/people-to-watch/steven-chu-and-lisa-jackson.html>

Steven Chu and Lisa Jackson

By Newsweek

EPA Administrator Lisa Jackson is a chemical engineer, and Energy Secretary Steven Chu is a physicist with a Nobel Prize, but starting in 2010 you can think of them as bad cop and good cop. With the Copenhagen climate negotiations failing to reach a legally binding treaty, and with climate legislation stalled in the Senate, this duo will lead the charge toward reducing U.S. greenhouse emissions and moving us to

renewable energy.

As of Jan. 1, any facility that emits at least 25,000 metric tons of carbon dioxide annually (or its equivalent in greenhouse gases such as methane and nitrous oxide) will have to start measuring and reporting their emissions to Jackson's EPA. That includes power plants, aluminum manufacturers, refineries, paper mills, and solid-waste landfills (a big source of methane). Insiders call the requirement the most "world-changing greenhouse policy" EPA has ever undertaken, since once something is counted it can be regulated.

Then, in March, using authority the Supreme Court confirmed in 2007, Jackson will issue rules requiring manufacturers to reduce greenhouse emissions from cars and trucks to a fleet average of 250 grams per mile (it's now 422) by 2016. Carmakers will achieve that through more hybrids and plug-in electrics, averting a projected 950 million metric tons of carbon dioxide and other greenhouse gases over the lifetime of those low-CO₂ vehicles. Finally, as early as summer, Jackson will issue rules making "major polluters"—like those subject to the greenhouse-gas reporting rule—use top-of-the-line CO₂ -control technology if they want to build a new facility or make significant changes to an existing one.

The regs are significant in themselves, but Jackson's real clout will be showing industry how much can be done on greenhouse emissions even without climate legislation. "This will encourage congressional action," says Rep. Edward Markey, cosponsor of the climate bill that passed the House in June. "Industry's choice is no longer between legislation and no legislation, but between legislation and regulation. Congress is a stimulus-response institution, and there is nothing more stimulating than a regulatory agency preempting powers Congress thinks it should have." We'll see if the dis is enough to move a climate bill out of the Senate in 2010.

Either way, utilities and other major greenhouse polluters could find salvation in Chu (whom Nature just named its Newsmaker of the Year 2009). Chu's task is nothing less than revamping the energy sector in the world's largest economy, which he is doing by encouraging high-risk/high-reward research. Besides being a "public cheerleader for clean-energy research," as Nature calls him, he's been opening the federal purse strings. He has \$400 million to award for clean-energy research—a big, fat carrot to Jackson's stick.

To: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 3:59:50 PM
Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010
Lisa Jackson
Steven Chu
Nobel Prize
EPA
Supreme Court confirmed in 2007
it's now 422
by 2016
build a new facility or make significant changes to an existing one
Rep. Edward Markey
climate bill
climate bill out of the Senate
Newsmaker of the Year 2009

:)

----- Original Message -----

From: Adora Andy
Sent: 12/23/2009 10:59 AM EST
To: Allyn Brooks-LaSure
Cc: Brendan Gilfillan; "Fulton, Scott" <fulton.scott@epa.gov>; Arvin Ganesan; Robert Goulding; Lisa Heinzerling; David McIntosh; "Oster, Seth" <Oster.Seth@epa.gov>; Bob Perciasepe; Richard Windsor; "Sussman, Bob" <sussman.bob@epa.gov>; Diane Thompson; Eric Wachter
Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010 And Republican Governors!

Adora Andy
Press Secretary
U.S. Environmental Protection Agency
Office of Public Affairs
202-564-2715
andy.adora@epa.gov

From: Allyn Brooks-LaSure/DC/USEPA/US
To: Brendan Gilfillan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, "Sussman, Bob" <sussman.bob@epa.gov>, "Fulton, Scott" <fulton.scott@epa.gov>, "Thompson, Diane" <Thompson.Diane@epamail.epa.gov>, "Perciasepe, Bob" <Perciasepe.Bob@epamail.epa.gov>, "McIntosh, David" <McIntosh.David@epamail.epa.gov>, "Ganesan, Arvin" <Ganesan.Arvin@epamail.epa.gov>, "Heinzerling, Lisa" <Heinzerling.Lisa@epamail.epa.gov>, "Wachter, Eric" <Wachter.Eric@epamail.epa.gov>, "Goulding, Robert" <Goulding.Robert@epamail.epa.gov>
Cc: Adora Andy/DC/USEPA/US@EPA, "Oster, Seth" <Oster.Seth@epa.gov>
Date: 12/23/2009 10:46 AM
Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

You beat out Steve Jobs and Vladimir Putin!

MABL.

M. Allyn Brooks-LaSure
Office of the Administrator
U.S. Environmental Protection Agency
Cell: Personal Privacy

----- Original Message -----

From: Brendan Gilfillan

Sent: 12/23/2009 10:42 AM EST

To: Richard Windsor

Cc: Allyn Brooks-LaSure; Adora Andy

Subject: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

Link here:

<http://2010.newsweek.com/top-10/people-to-watch/steven-chu-and-lisa-jackson.html>

Steven Chu and Lisa Jackson

By Newsweek

EPA Administrator Lisa Jackson is a chemical engineer, and Energy Secretary Steven Chu is a physicist with a Nobel Prize, but starting in 2010 you can think of them as bad cop and good cop. With the Copenhagen climate negotiations failing to reach a legally binding treaty, and with climate legislation stalled in the Senate, this duo will lead the charge toward reducing U.S. greenhouse emissions and moving us to renewable energy.

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The regs are significant in themselves, but Jackson's real clout will be showing industry how much can be done on greenhouse emissions even without climate legislation. "This will encourage congressional action," says Rep. Edward Markey, cosponsor of the climate bill that passed the House in June. "Industry's choice is no longer between legislation and no legislation, but between legislation and regulation. Congress is a stimulus-response institution, and there is nothing more stimulating than a regulatory agency preempting powers Congress thinks it should have." We'll see if the dis is enough to move a climate bill out of the Senate in 2010.

Either way, utilities and other major greenhouse polluters could find salvation in Chu (whom Nature just named its Newsmaker of the Year 2009). Chu's task is nothing less than revamping the energy sector in the world's largest economy, which he is doing by encouraging high-risk/high-reward research. Besides being a "public cheerleader for clean-energy research," as Nature calls him, he's been opening the federal purse strings. He has \$400 million to award for clean-energy research—a big, fat carrot to Jackson's stick.

To: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 6:06:47 PM
Subject: Draft email to Orszag and Nabors - what do you think?

Peter (and Rob),

Deliberative

Deliberative

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/23/2009 7:02:26 PM
Subject: Re: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

Sigh

----- Original Message -----

From: Arvin Ganesan
Sent: 12/23/2009 01:45 PM EST
To: David McIntosh
Cc: brooks-lasure.allyn@epa.gov; fulton.scott@epa.gov; heinzerling.lisa@epa.gov; mccarthy.gina@epa.gov; oster.seth@epa.gov; perciasepe.bob@epa.gov; thompspn.diane@epa.gov; windsor.richard@epa.gov
Subject: Re: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

I just spoke with Boxer's staff and here is their understanding of timing of potential climate votes next year. They believe that the vote on Jan 20th will be an amendment to the Clean Air Act, gutting EPA authority on GHG. This would be a 60 vote threshold vote, as David pointed out below. I have also heard that this amendment would exempt the Cars rule and would halt EPA finalizing any GHG related rule for one year.

They believe that if that vote fails (which is likely), that Murkowski will then file her Congressional Review Act disapproval shortly thereafter. This vote would be a 50 vote threshold. I assume that she would only file this if her original amendment gets over 50 votes, but under 60.

ARVIN R. GANESAN
Deputy Associate Administrator
Congressional Affairs
Office of the Administrator
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

From: David McIntosh/DC/USEPA/US
To: windsor.richard@epa.gov, thompspn.diane@epa.gov, fulton.scott@epa.gov, ganesan.arvin@epa.gov, oster.seth@epa.gov, mccarthy.gina@epa.gov, heinzerling.lisa@epa.gov, brooks-lasure.allyn@epa.gov, perciasepe.bob@epa.gov
Date: 12/22/2009 03:52 PM
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

FYI. Please don't forward. There's a lot of information here. One piece of it is that the Murkowski anti-endangerment measure will actually receive a vote on January 20 as an amendment to the bill to lift the debt ceiling. The amendment will need 60 votes in order to be adopted. I am now trying to find out how much flexibility Murkowski will have in the drafting of her amendment (i.e., must it be styled as a resolution of disapproval under the Congressional Review Act, or could she actually style it as an

amendment to the Clean Air Act).

----- Forwarded by David McIntosh/DC/USEPA/US on 12/22/2009 03:47 PM -----

From: "Miller, Chris (Reid)" <Chris_Miller@reid.senate.gov>
To: David McIntosh/DC/USEPA/US@EPA
Date: 12/22/2009 03:38 PM
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

This will be ugly

Sent from my BlackBerry Wireless Handheld

From: Engle, Tricia (DPC) <Tricia_Engle@DPC.SENATE.GOV>
To: D-FLOOR@LISTSERV.SENATE.GOV <D-FLOOR@LISTSERV.SENATE.GOV>
Sent: Tue Dec 22 15:33:03 2009
Subject: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

The Senate has entered into the following agreement:

If cloture is invoked on HR 3590 tomorrow, all post-cloture debate time will be considered expired at 8:00am Thursday, December 24 and the Senate will proceed to vote on passage of the bill, as amended.

Please note, that this agreement is in addition to the votes with respect to points of order, adoption of the Reid Substitute amendment, and cloture on the underlying bill. Those votes are expected to begin at approximately 3:20pm tomorrow, Wednesday, December 23.

Upon disposition of HR 3590, the Senate will proceed to the immediate consideration of H.R. 4314, an act to permit continued financing of government operations, with no amendments in order. The Senate will then proceed to vote on passage of the bill. Passage of HR 4314 will require 60-affirmative votes.

Therefore, there will be 2 votes at 8am Thursday, December 24:

- Passage of HR 3590, as amended
- Passage of HR 4314, government operations (60 vote threshold)

On Wednesday, January 20, 2010, at a time to be determined by the Majority Leader, following consultation with the Republican Leader, the Finance Committee will be discharged of H.J.Res. 45, Increasing the statutory limit on the public debt, and the Senate will proceed to the measure. Senator Reid or his designee will be recognized to offer a substitute amendment. The following are the only amendments in order to the joint resolution:

- Thune-TARP
- Murkowski-Endangerment EPA regs
- Coburn-Rescission package
- Sessions-spending caps
- McConnell-relevant to any on list
- Reid-relevant to any on list
- Reid-paygo
- Baucus-3 relevant to any on list
- Conrad-Gregg-fiscal task force

Each of the listed amendments will be subject to an affirmative 60-vote threshold. Upon disposition of all amendments, the substitute amendment, as amended, if amended, will be agreed to; the joint resolution, as

amended, will be read a third time and the Senate then proceed to vote on passage, with passage subject to a 60-vote threshold.

Further, on Wednesday, January 21, 2010, after a period of morning business, the Senate will proceed to Executive Session to consider the nomination of Beverly Martin to be a U.S. Circuit Judge for the 11th Circuit. There will be 60 minutes of debate with respect to the nomination with the time equally divided and controlled between Senators Leahy and Sessions or their designees. Upon the use or yielding back of time, the Senate will proceed to vote on confirmation of the nomination.

To: CN=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 12/24/2009 5:12:49 PM
Subject: Re: Timing of issuing dioxin PRGs & 108(b)

Deliberative

Lisa

----- Original Message -----

From: Mathy Stanislaus

Sent: 12/24/2009 12:08 PM EST

To: Richard Windsor

Cc: Bob Sussman; Bob Perciasepe; Diane Thompson; Lisa Heinzerling; Seth Oster

Subject: Timing of issuing dioxin PRGs & 108(b)

Lisa:

The interim dioxin PRGs and 108(b) are expected to be cleared by OMB early next week.

Deliberative

Deliberative

To: CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 12/24/2009 5:23:21 PM
Subject: Fw: Status of Action Plans

after new years...

----- Forwarded by Richard Windsor/DC/USEPA/US on 12/24/2009 12:23 PM -----

From: Steve Owens/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Date: 12/24/2009 11:23 AM
Subject: Re: Status of Action Plans

Thanks so much, Lisa. That means a lot. I would like to have some time to visit with you over dinner.

I hope you feel better and that your holidays are good.

You have much to be proud of this year. You have made an extraordinary difference both inside and outside the agency.

See you in 2010!

Best,

Steve

----- Original Message -----

From: Richard Windsor
Sent: 12/23/2009 09:13 AM EST
To: Steve Owens
Subject: Re: Status of Action Plans
Thanks Steve. Have a safe trip and a wonderful New Year.

I am sorry I missed our one on one the other day. I have been fighting a horrible cold and trying to prevent it from turning into something even worse like pneumonia or bronchitis.

I'd like to have breakfast or dinner when you are back in town. I want to reassure you that we at EPA will fight for your program and your needs. I am frustrated myself at your treatment at OMB and want to make sure you are getting the support you need.

Have a wonderful holiday break.

Lisa

----- Original Message -----

From: Steve Owens
Sent: 12/22/2009 05:54 PM EST

To: Bob Sussman; Bob Perciasepe; Richard Windsor; Lisa Heinzerling

Subject: Status of Action Plans

I just spoke to Cass. He said that he is pushing his staff to get the action plans done, but they will not be able to get anything to us tonight. He said that he was "confident" that we would get OMB's comments "early tomorrow afternoon, at the latest."

He said that OMB would have comments on the plans, which he called "reasonable suggestions about how to improve the plans."

I will be traveling to AZ tomorrow, but I will have my staff forward the OMB comments to Bob S. and Lisa H. as soon they arrive. I will be reachable on my blackberry tomorrow evening and Thursday to discuss the OMB comments, as well as the strategy going forward: Personal Privacy

To: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 12/28/2009 5:29:25 PM
Subject: Re: High Priority Performance Goals

Looks just fine. Tx.

From: Bob Perciasepe/DC/USEPA/US
To: Barbara Bennett/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA
Date: 12/27/2009 09:47 PM
Subject: Re: High Priority Performance Goals

Here is a revised draft based on Barb's comments. Please compare to the other agencies I sent over weekend

[attachment "Environmental Protection Agency HPPG 2.doc" deleted by Richard Windsor/DC/USEPA/US]

Bob Perciasepe
Deputy Administrator, U.S. EPA
1200 Pennsylvania Ave., ARN
(o) +1 202 564 4711
(c) **Personal Privacy**

From: Barbara Bennett/DC/USEPA/US
To: Bob Perciasepe/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Date: 12/27/2009 09:22 AM
Subject: Re: High Priority Performance Goals

Bob,
I think these read much more consistent with the other Agencies' goals. I have two comments, both within the first goal:

For the opening, what about deleting "work on actions" and simply state "EPA will improve the country's ability to measure..."

Secondly, only a question, but by stating we'll work w DOT on 2010 Regs, will that timeline (2010) risk seeming like past tense in the context of a 2011 budget submission?

Barb

----- Original Message -----

From: Bob Perciasepe

Sent: 12/26/2009 10:33 PM EST

To: Richard Windsor; Barbara Bennett; Diane Thompson

Subject: High Priority Performance Goals

I took a shot at revising slightly the HPPG for EPA. Three focus areas - GHG, Water, Communities. After the Appeal for our 2011 budget we will have more \$\$ for brown fields, air toxics at the community level and urban water coordination. I think this represents a real opportunity to wrap these up into a community based initiative build on the anchor of Mathy's framework. I propose we make it a HPPG and that we commit to 20 communities in the next 2 years (2011 and 2012). Barbara will have the budget allocations by Monday.

I have also attached the Departments of Ag, Energy and Interior so you can see what they have. I promised not to distribute beyond this group. Thanks !!!

I don't think we have more than a few days to work this.

[attachment "Environmental Protection Agency HPPG.doc" deleted by Barbara Bennett/DC/USEPA/US]

[attachment "Department of Agriculture Energy and DOI.doc" deleted by Barbara Bennett/DC/USEPA/US]

Bob Perciasepe

Deputy Administrator, U.S. EPA

1200 Pennsylvania Ave., ARN

(o) +1 202 564 4711

(c) **Personal Privacy**

To: CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 2:09:44 PM
Subject: Re: Orszag Engaged
Hotspot
Peter Orszag, Bianna Golodryga Engaged
went public earlier this month
reports
said
a HuffPost community favorite
(embedded image)

Oh my.

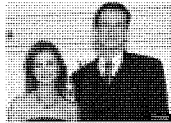
----- Original Message -----

From: Seth Oster
Sent: 12/29/2009 08:40 AM EST
To: Richard Windsor
Subject: Orszag Engaged

December 29, 2009

Peter Orszag, Bianna Golodryga Engaged

OMB Director Peter Orszag and ABC News financial reporter Bianna Golodryga are engaged! The couple, who began dating after the White House Correspondent's Association Dinner in May and whose relationship went public earlier this month, were engaged Monday afternoon at lunch at New York's Sarabeth's restaurant, the New York Times reports.
"She's a Russian Jew who gets up earlier than I do," Orszag said of his new fiancée.
The 41-year-old OMB director -- who's a HuffPost community favorite and who has two children from a previous marriage -- and the 31-year-old ABC News reporter plan an October wedding.



To: CN=Steve Owens/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 4:49:10 PM
Subject: Re: Problem with OMB

Deliberative

----- Original Message -----

From: Steve Owens

Sent: 12/29/2009 11:43 AM EST

To: Bob Sussman; Richard Windsor

Cc: Bob Perciasepe; Seth Oster; Lisa Heinzerling; Diane Thompson

Subject: Problem with OMB

Bob,

Deliberative

Bob, I will call you to discuss all this in a moment.

Steve

To: CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA[]
Cc: "Lisa Heinzerling" [heinzerling.lisa@epa.gov]; Bob Sussman" [Sussman.bob@epa.gov]; David McIntosh" [mcintosh.david@epa.gov]; Seth Oster" [oster.seth@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 5:27:23 PM
Subject: Re: Refinery Petition

Who is lead?

----- Original Message -----

From: Gina McCarthy

Sent: 12/29/2009 12:25 PM EST

To: Richard Windsor

Cc: Heinzerling.Lisa@EPA.GOV; Sussman.bob@EPA.GOV; McIntosh.David@EPA.GOV

Subject: Refinery Petition

Just a heads up. I am positively responding to a number of petitions for reconsideration filed by environmental advocacy as well as industry groups back in Aug 08, regarding a number of provisions of an NSPS for refineries that was established in June 08. In accordance with an agreement reached by the litigants, we have until the end of 2009 to decide whether or not we will reconsider any or all of the 10 remaining provisions. One of the remaining issues relates to our earlier decision not to establish a GHG NSPS for refineries.

There are procedural as well as substantive reasons why we are agreeing to reconsider all 10 provisions. For the sake of clarity, we are keeping the response letter short and sweet, simply indicating that our decision to reconsider all remaining provisions means that we are opening up these issues up for the purpose of seeking and considering further notice and comment, and noting that the decisions does not mean that we have determined that any change in the substantive outcome is warranted. I am happy to share the letter if people have concerns.

Given the sensitivity to all things climate, I think we should make sure to have a desk statement handy if there are calls. We also plan to contact the petitioners to make sure that they do not read more into this decision than is warranted. I would also suggest that we inform the WH just to ensure that there is no misunderstanding or surprises.

OK? Did we miss anything?

To: "Diane Thompson" [thompson.diane@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 5:27:36 PM
Subject: Fw: Refinery Petition

----- Original Message -----

From: Richard Windsor
Sent: 12/29/2009 12:27 PM EST
To: Gina McCarthy
Cc: "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>; "David McIntosh" <mclntosh.david@epa.gov>; "Seth Oster" <oster.seth@epa.gov>
Subject: Re: Refinery Petition
Who is lead?

----- Original Message -----

From: Gina McCarthy
Sent: 12/29/2009 12:25 PM EST
To: Richard Windsor
Cc: Heinzerling.Lisa@EPA.GOV; Sussman.bob@EPA.GOV; McIntosh.David@EPA.GOV
Subject: Refinery Petition

Just a heads up. I am positively responding to a number of petitions for reconsideration filed by environmental advocacy as well as industry groups back in Aug 08, regarding a number of provisions of an NSPS for refineries that was established in June 08. In accordance with an agreement reached by the litigants, we have until the end of 2009 to decide whether or not we will reconsider any or all of the 10 remaining provisions. One of the remaining issues relates to our earlier decision not to establish a GHG NSPS for refineries.

There are procedural as well as substantive reasons why we are agreeing to reconsider all 10 provisions. For the sake of clarity, we are keeping the response letter short and sweet, simply indicating that our decision to reconsider all remaining provisions means that we are opening up these issues up for the purpose of seeking and considering further notice and comment, and noting that the decisions does not mean that we have determined that any change in the substantive outcome is warranted. I am happy to share the letter if people have concerns.

Given the sensitivity to all things climate, I think we should make sure to have a desk statement handy if there are calls. We also plan to contact the petitioners to make sure that they do not read more into this decision than is warranted. I would also suggest that we inform the WH just to ensure that there is no misunderstanding or surprises.

OK? Did we miss anything?

To: "Sunstein, Cass R." Personal Privacy
Cc: Personal Privacy CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[];
N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
Bcc: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Steve
Owens/OU=DC/O=USEPA/C=US@EPA;CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[];
N=Steve Owens/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA[]; N=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 5:36:00 PM
Subject: Chemical Action Plans

Cass,

I hear from Steve that you are looking for confirmation that I want the remaining chemical action plans to go out today or tomorrow. I do indeed remain committed to getting them out.

I also want to confirm that we have gone through interagency review and that we are happy to work through remaining language changes with you. That said, these relatively non-controversial plans are not a surprise and are a public commitment I strongly prefer to keep.

Thanks, Lisa

To: CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/29/2009 5:44:02 PM
Subject: Re: Refinery Petition

K. Tx. Please send the email to Jody.

From: Gina McCarthy/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Tsirigotis.Peter@EPA.GOV
Date: 12/29/2009 12:42 PM
Subject: Re: Refinery Petition

I sign this letter and the substance falls within OAQPS - Peter Tsirigotis's office. I was planning to make the calls to the enviros and have OAQPS call the industry guys. I was also planning to call or send (or draft) an email for the WH. I assume it would go to Jody or Carol.

From: Richard Windsor/DC/USEPA/US
To: Gina McCarthy/DC/USEPA/US@EPA
Cc: "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>
Date: 12/29/2009 12:27 PM
Subject: Re: Refinery Petition

Who is lead?

----- Original Message -----

From: Gina McCarthy
Sent: 12/29/2009 12:25 PM EST
To: Richard Windsor
Cc: Heinzerling.Lisa@EPA.GOV; Sussman.bob@EPA.GOV; McIntosh.David@EPA.GOV
Subject: Refinery Petition

Just a heads up. I am positively responding to a number of petitions for reconsideration filed by environmental advocacy as well as industry groups back in Aug 08, regarding a number of provisions of an NSPS for refineries that was established in June 08. In accordance with an agreement reached by the litigants, we have until the end of 2009 to decide whether or not we will reconsider any or all of the 10 remaining provisions. One of the remaining issues relates to our earlier decision not to establish a GHG NSPS for refineries.

There are procedural as well as substantive reasons why we are agreeing to reconsider all 10 provisions. For the sake of clarity, we are keeping the response letter short and sweet, simply indicating that our decision to reconsider all remaining provisions means that we are opening up these issues up for the

purpose of seeking and considering further notice and comment, and noting that the decisions does not mean that we have determined that any change in the substantive outcome is warranted. I am happy to share the letter if people have concerns.

Given the sensitivity to all things climate, I think we should make sure to have a desk statement handy if there are calls. We also plan to contact the petitioners to make sure that they do not read more into this decision than is warranted. I would also suggest that we inform the WH just to ensure that there is no misunderstanding or surprises.

OK? Did we miss anything?

To: CN=Barbara Bennett/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/30/2009 2:14:50 PM
Subject: Re: Updated 2011 slide

Thanks all.

From: Barbara Bennett/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA
Date: 12/29/2009 05:21 PM
Subject: Updated 2011 slide

Attached is the summary slide of where we landed after having for 2011 budget settlement. You'll see that we tweaked the State Air and Water Grants up a bit to \$45M each, taking a little from several places. OMB has more detail and of course more to come at the program project level. Thank you for all the feedback and team effort.

[attachment "2011_Passback_Briefing_v33.ppt" deleted by Richard Windsor/DC/USEPA/US]

To: CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;"Lisa Jackson" [windsor.richard@epa.gov]; Lisa Jackson" [windsor.richard@epa.gov]
Cc: "Diane Thompson" [thompson.diane@epa.gov]; Gina (Sheila) McCarthy" [mccarthy.gina@epa.gov]; goffman joseph" [goffman.joseph@epa.gov]; mccabe janet" [mccabe.janet@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/30/2009 9:52:05 PM
Subject: Re: CONFIDENTIAL MEMORANDUM

Thanks David. This helps a lot with context. I agree the Monday meeting must be small, political only. I suggest only the folks on this note and perhaps the Bobs, Lisa H and Seth. It is a topline strategy meeting only. And I agree we will not be in a position at that point to make final decisions. Lj

P.S. If you are back, welcome back!

----- Original Message -----

From: David McIntosh
Sent: 12/30/2009 03:54 PM EST
To: windsor.richard@epa.gov
Cc: thompson.diane@epa.gov; mccarthy.gina@epa.gov; goffman.joseph@epa.gov; mccabe.janet@epa.gov
Subject: CONFIDENTIAL MEMORANDUM
CONFIDENTIAL MEMORANDUM
TO: Administrator Jackson
FROM: David McIntosh
SUBJECT: The New Murkowski Amendment
CC: Diane Thompson, Gina McCarthy, Joe Goffman, and Janet McCabe

Monday afternoon from 4:00 to 4:45, you are scheduled to meet in your office with me and those cc'd here about an anti-EPA provision that will receive a vote in the full Senate on January 20. I recommend that the meeting remain small.

On December 22, Senate Majority Leader Reid achieved unanimous-consent adoption of a procedure whereby the Senate will, on January 20, start and complete consideration of a bill to raise the federal government's debt ceiling. Pursuant to that procedure, only nine amendments will be considered, and each of them will need to receive 60 affirmative votes in order to be adopted.

One of the nine amendments is identified as "Murkowski - Endangerment EPA regs." That title notwithstanding, we should expect Senator Murkowski's amendment to leave the endangerment findings alone and instead target regulation of stationary-source greenhouse-gas emissions under the existing Clean Air Act.

Deliberative

Deliberative

To: CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 12/30/2009 9:53:31 PM
Subject: Re: Season's Greetings
Hotspot

Hey Richard,

Happy 2010 to you soon. I agree - hope to see you soon.

Lisa

----- Original Message -----

From: Eric Wachter
Sent: 12/30/2009 03:20 PM EST
To: Richard Windsor
Subject: Fw: Season's Greetings

----- Forwarded by Eric Wachter/DC/USEPA/US on 12/30/2009 03:20 PM -----

Date 12/28/2009 12:47 PM
From "Carson, Richard" <rcarson@affinia.com>
To LisaP Jackson/DC/USEPA/US@EPA
cc
Subject RE: Season's Greetings

Hi Lisa!

I was just asking Bicky how you are doing and she gave me the updates on work and family! We have embarked on the 3 hour spinning class once again. CRAZY!

I wish you a happy New Year and hope to see you in Art and Soul soon!

Take care- Richard

Richard Carson
Director of Group Sales

The Liaison Capitol Hill, An Affinia Hotel | 415 New Jersey Avenue, N.W. | Washington, D.C. 20001
T: 202-434-0112 | F: | E: rcarson@affinia.com

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Please print responsibly -----Original Message-----
From: Jackson.LisaP@epamail.epa.gov
[mailto:Jackson.LisaP@epamail.epa.gov]
Sent: Wednesday, December 23, 2009 10:40 AM
To: Carson, Richard
Subject: Season's Greetings

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OEX Processing Information
Processed Date:
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PO Office Category:

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To: "Lisa Jackson" **Personal Privacy**
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 4/3/2009 1:29:16 PM
Subject: Fw: **Personal Privacy**
Personal Privacy

----- Original Message -----

From: Marygrace Galston
Sent: 04/03/2009 09:24 AM EDT
To: Richard Windsor
Cc: Eric Wachter
Subject: Fw: **Personal Privacy**

Personal Privacy

----- Forwarded by Marygrace Galston/DC/USEPA/US on 04/03/2009 09:23 AM -----

From: "Ogden, Lisa B." <**Personal Privacy**>
To: Marygrace Galston/DC/USEPA/US@EPA
Date: 04/02/2009 06:34 PM
Subject: **Personal Privacy**

Here is one of the names for GC. Hang on and I will send the rest tomorrow.

Lisa Borin Ogden
Special Assistant to the President
for Presidential Personnel

Personal Privacy

To: "Allyn Brooks-Lasure" [Brooks-lasure.allyn@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 4/7/2009 12:33:45 PM
Subject: Fw: E-Clips Tuesday Edition
E-Clips - Tuesday, April 7, 2009.doc

The last article should be included in my remarks tomorrow at the water Frontline presser.

----- Original Message -----

From: OPA Multimedia E-Clips
Sent: 04/07/2009 07:51 AM EDT
To: E-Clips Distribution; E-Clips Distribution 1; E-Clips Distribution 2; E-Clips Distribution 3; E-Clips Distribution 3; E-Clips R6
Subject: E-Clips Tuesday Edition
Good Morning: Here is your daily national news E-Clips document. This is a service provided by HQs Office of Public Affairs. Please note that the table of contents is hyperlinked. This means you may with one click or a combination of holding down the control key and a click on any article listed in the table of content to be taken to that article.

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To: "Allyn Brooks-Lasure" [Brooks-lasure.allyn@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 4/7/2009 12:33:45 PM
Subject: Fw: E-Clips Tuesday Edition
E-Clips - Tuesday, April 7, 2009.doc

The last article should be included in my remarks tomorrow at the water Frontline presser.

----- Original Message -----

From: OPA Multimedia E-Clips
Sent: 04/07/2009 07:51 AM EDT
To: E-Clips Distribution; E-Clips Distribution 1; E-Clips Distribution 2; E-Clips Distribution 3; E-Clips Distribution 3; E-Clips R6
Subject: E-Clips Tuesday Edition
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To: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=David
Cohen/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA[]; N=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=David
Cohen/OU=DC/O=USEPA/C=US@EPA;CN=Robert
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Cc: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Todd
Atkinson/OU=DC/O=USEPA/C=US@EPA[]; N=Todd Atkinson/OU=DC/O=USEPA/C=US@EPA[]

From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Fri 4/10/2009 8:18:37 PM
Subject: EPA, 100 day Cabinet report
2009 - EPA, document (DRAFT III) 100 day document.doc

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Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: "Milakofsky, Benjamin E." Personal Privacy Lu, Christopher
P." Personal Privacy Hurlbut, Brandon K."
Personal Privacy

Cc: CN=Todd Atkinson/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=David
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N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Eric
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N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-

LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[];
N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA[]
Bcc: CN=Richard Windsor/OU=DC/O=USEPA/C=US[]
From: CN=Ray Spears/OU=DC/O=USEPA/C=US
Sent: Mon 4/13/2009 8:29:35 PM
Subject: Re: Reminder: draft 100-day Report
2009 - EPA document (DRAFT IV) 100 day document.doc

Personal Privacy

Attached is EPA's draft 100-day Report. We await your comments. It would be helpful if you could let us know when we should expect comments and the target date we should look to for finalization.

Ray E. Spears, Esq.
Deputy Chief of Staff
Office of the Administrator (1101A)
(202) 564-4715
(202) 501-3202 FAX

From: "Milakofsky, Benjamin E." **Personal Privacy**
To: "Lu, Christopher P." **Personal Privacy** "Smith, Elizabeth S."
Personal Privacy "Kimball, Astri B." **Personal Privacy** "Hurlbut,
Brandon K." **Personal Privacy** "French, Michael J."
"Milakofsky, Benjamin E." **Personal Privacy**
Date: 04/13/2009 03:05 PM
Subject: Reminder: draft 100-day Report

Dear Cabinet Chiefs of Staff:

A friendly reminder that the draft 100-Day Report is due today. Please send your completed report to Ben Milakofsky at **Personal Privacy**

We have attached the template that was circulated a few weeks ago.

Please let us know if you have any questions.

--Cabinet Affairs

[attachment "100daystemplate.doc" deleted by Ray Spears/DC/USEPA/US]

To: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Scott
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Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Marcia Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray Spears/OU=DC/O=USEPA/C=US@EPA[];
N=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA[]; N=Ray Spears/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Sun 4/19/2009 7:08:56 PM
Subject: Upcoming Announcements/Actions

To help Allyn plan near-term communications strategy, I am providing below a preliminary list of major announcements/actions that are in the works over the next several weeks. This list is undoubtedly incomplete. Please add items that you know are upcoming and believe will/should involve the Administrator.

I know Allyn is planning a meeting soon to review communications planning for the next 60 days so your additions to the list will be timely and much appreciated.

Deliberative

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Craig
Hooks/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=David
McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Eric
Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
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N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Marcia
Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Marcia Mulkey/OU=DC/O=USEPA/C=US@EPA;CN=Ray
Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Ray Spears/OU=DC/O=USEPA/C=US@EPA;CN=Richard
Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert
Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[];
N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Scott

Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Sun 4/19/2009 7:32:18 PM
Subject: Re: Upcoming Announcements/Actions

I made one addition to the list. Please use the revised list below. thanks.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To help Allyn plan near-term communications strategy, I am providing below a preliminary list of major announcements/actions that are in the works over the next several weeks. This list is undoubtedly incomplete. Please add items that you know are upcoming and believe will/should involve the Administrator.

I know Allyn is planning a meeting soon to review communications planning for the next 60 days so your additions to the list will be timely and much appreciated.

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Deliberative

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 5/6/2009 8:20:52 PM
Subject: Fw: E-Clips Tuesday Edition
E-Clips - Tuesday, May 5, 2009.doc

See the quotes in the PCS article? Lets talk next steps tomorrow morning.

----- Forwarded by Richard Windsor/DC/USEPA/US on 05/06/2009 04:20 PM -----

From: OPA Multimedia E-Clips
To: E-Clips Distribution, E-Clips Distribution 1, E-Clips Distribution 2, E-Clips Distribution 3, E-Clips R6
Date: 05/05/2009 07:49 AM
Subject: E-Clips Tuesday Edition

Good Morning: Here is your daily national news E-Clips document. This is a service provided by HQs Office of Public Affairs. Please note that the table of contents is hyperlinked. This means you may with one click or a combination of holding down the control key and a click on any article listed in the table of content to be taken to that article.

E-Clips contain copyrighted materials and are made available to designated recipients. Neither the E-Clips nor any individual article within may be further distributed.

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Sun 5/10/2009 4:00:13 PM
Subject: Re: Grace verdict - acquittal

Tx.

----- Original Message -----

From: Scott Fulton
Sent: 05/10/2009 11:55 AM EDT
To: Bob Sussman; Richard Windsor; Diane Thompson
Subject: Re: Grace verdict - acquittal

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 05/10/2009 09:25 AM EDT
To: Richard Windsor; Scott Fulton; Diane Thompson
Subject: Fw: Grace verdict - acquittal

Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 05/10/2009 09:23 AM -----

From: Catherine McCabe/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Date: 05/08/2009 05:04 PM
Subject: Re: Fw: Grace verdict - acquittal

Thank you, Bob. Once they've had a few days to recover, I think a nice note from Lisa would go a long way towards restoring their spirits.

Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: Bob Sussman
Sent: 05/08/2009 03:50 PM EDT
To: Catherine McCabe
Cc: Adora Andy; Allyn Brooks-LaSure; Laura Gentile; Randy Hill; Scott Fulton
Subject: Re: Fw: Grace verdict - acquittal

Catherine -- I know this is a tough and frustrating outcome after years of effort. I hope the team is aware

of our appreciation for good work under difficult circumstances.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Catherine McCabe/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Cc: Laura Gentile/DC/USEPA/US@EPA, Randy Hill/DC/USEPA/US@EPA
Date: 05/08/2009 02:08 PM
Subject: Fw: Grace verdict - acquittal

Deliberative

Catherine R. McCabe
Acting Assistant Administrator
U.S. EPA, Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., N.W. (Ariel Rios South, Rm 3204)
Washington, D.C. 20460
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

----- Forwarded by Catherine McCabe/DC/USEPA/US on 05/08/2009 02:03 PM -----

From: Fred Burnside/DC/USEPA/US
To: "Catherine McCabe" <mccabe.catherine@epa.gov>
Date: 05/08/2009 01:47 PM
Subject: Grace verdict

Catherine, I tried your cell but did not get an answer. The jury acquitted all defendants on all counts. Bad result for the government. Fred
Sent by EPA Wireless E-Mail Services

To: "Lisa Home" Personal Privacy
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 5/15/2009 3:02:40 PM
Subject: Fw:
[Great Lakes.pdf](#)

----- Original Message -----

From: Arvin Ganesan
Sent: 05/15/2009 10:37 AM EDT
To: Richard Windsor
Subject: Fw:
Great lakes...trying to get this to you in word.
Sent from my Blackberry Wireless Device

----- Original Message -----

From: Janet Means-Thomas
Sent: 05/15/2009 10:36 AM EDT
To: Arvin Ganesan; Robert Cunningham/DC/USEPA/US

Janet Means-Thomas
Program Assistant
Office of Intergovernmental Relations
U.S. Environmental Protection Agency
Phone: 202 564-2454
Fax: 202 501-1545

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Deliberative

Deliberative

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To: "Lisa At Home" **Personal Privacy**
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 5/25/2009 4:17:22 PM
Subject: Fw: Final Dow Letter
Final Dow Letter.doc

----- Original Message -----

From: Diane Thompson
Sent: 05/22/2009 05:03 PM EDT
To: Richard Windsor
Subject: Fw: Final Dow Letter
Here is the Dow letter text, with full copy attached.
May ____, 2009

Dear Community Member:

Deliberative

Deliberative

Deliberative

Deliberative

Sincerely,

Lisa P. Jackson

cc: Michigan Department of Environmental Quality
The Dow Chemical Company

Diane E. Thompson

Chief of Staff

U. S. Environmental Protection Agency

202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 05/22/2009 05:01 PM -----

From: Bob Sussman/DC/USEPA/US

To: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Barry Breen/DC/USEPA/US@EPA, Peter Preuss/DC/USEPA/US@EPA, Bharat Mathur/R5/USEPA/US@EPA, Robert Kaplan/R5/USEPA/US@EPA, Robert Polin/DC/USEPA/US@EPA, Wendy Carney/R5/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, karl.richard@epa.gov, Anne Rowan/R5/USEPA/US@EPA

Date: 05/21/2009 08:17 PM

Subject: Final Dow Letter

Here is what I believe (and hope) is the final letter from the Administrator to the Dow stakeholders. If necessary, we can discuss it on tomorrow morning's call.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]; N=Katharine Gage/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 5/25/2009 4:17:26 PM
Subject: Re: Dow Calls on Tuesday

Thx Bob. Very helpful.

----- Original Message -----

From: Bob Sussman
Sent: 05/24/2009 01:24 PM EDT
To: Richard Windsor
Cc: Adora Andy; Robert Goulding; Eric Wachter; Diane Thompson; Allyn Brooks-LaSure; Brendan Gilfillan; Katharine Gage
Subject: Dow Calls on Tuesday
Lisa -- you will participate on Tuesday in two calls on Dow -- one with community representatives and the other with an AP reporter.

Shortly after the calls, we'll be issuing a press release announcing your letter to Dow stakeholders and our new dioxin science plan. The press release, letter and science plan are attached. You should read them if you can.

The community call will be with three representatives of the Lone Tree Council. This group works with many other environmental organizations and is the focal point for environmental advocacy on the Dow cleanup. The Council has a long history of tackling environmental causes in the Saginaw Bay watershed. You'll be talking to Michelle Riddick, Tracey Eastlake and Terry Miller. They are smart, knowledgeable and nice people. However, they have deep and abiding suspicions of Dow Chemical, the State of Michigan and the previous EPA leadership. They are also close to Mary Gade and remain in contact with her. They believe the negotiations conducted with Dow by the previous Administration were a "political fix" to protect Dow's interests and that Mary was fired at the behest of Dow because she would not roll over and sell out the environment.

I've recommended that you talk only with the Lone Tree Council. I've already talked to Steve Chester of MDEQ (who was very enthusiastic about our plan) and will brief Dave Keppler, EVP at Dow, on Tuesday morning. I think Dow will be ok with our new approach although when they read your letter, they will realize that EPA will be a tougher adversary than they expected.

I believe we can win over the Lone Tree Council with your presence on the call. You don't need to go over the details in the letter, which I'll cover after you leave the call. What you do need to do is to convey the message that you are personally committed to the site, that your only goal is an expeditious and protective cleanup, that you will not be swayed by politics and that you will not hesitate to use all the authorities of CERCLA to hold Dow's feet to the fire if needed. You also need to say that a division of responsibilities between EPA and the State will leverage available resources and get the job done faster and that, in this difficult economic time, EPA's commitment of manpower and expertise means a lot.

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While we are going back to the negotiating table with Dow, our approach is significantly stronger than the last Administration's because:

1. We will have a comprehensive cleanup plan and schedule.
2. We will build an unprecedented amount of transparency in the negotiation process.
3. We will put in place a comprehensive community involvement process for the remainder of the cleanup.
4. We will have a full-time EPA presence on the ground in the watershed.
5. We are making a huge commitment to dioxin science -- including completing the dioxin reassessment by the end of 2010, developing interim cleanup levels by the end of 2009, and conducting a critical review of the Dow dioxin exposure study by September 30, 2009.

I think that item #5 is actually the most newsworthy and important part of our announcement because it underscores EPA's commitment to science-based cleanup decisions on dioxins -- which we've never really had before because EPA could (would) not complete the assessment and update dioxin cleanup values.

Hope this is enough background. Let me know if you want to talk through any of this. Good travels!!!

[attachment "5-22-09 dioxin release_draft3.doc" deleted by Richard Windsor/DC/USEPA/US]

[attachment "dioxin science plan_Draft 5 18 09.doc" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Final Dow Letter 52209.doc" deleted by Richard Windsor/DC/USEPA/US]

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Diane
Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Diane
Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Diane
Thompson/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 5/28/2009 1:53:49 PM
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

Tx, Lj

----- Original Message -----

From: Scott Fulton
Sent: 05/28/2009 08:03 AM EDT
To: Bob Sussman; Diane Thompson; Richard Windsor
Cc: Arvin Ganesan
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 05/28/2009 06:53 AM EDT
To: Diane Thompson; Richard Windsor
Cc: Scott Fulton; Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

----- Original Message -----

From: Diane Thompson

Sent: 05/27/2009 10:46 PM EDT

To: Bob Sussman; Richard Windsor

Cc: Scott Fulton; Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

----- Original Message -----

From: Bob Sussman

Sent: 05/27/2009 07:12 PM EDT

To: Richard Windsor

Cc: Diane Thompson; Scott Fulton; Arvin Ganesan

Subject: Time-Sensitive Decisions on PCS Phosphate

Lisa -- we are at a decision-point on the PCS Phosphates wetlands matter in North Carolina and your immediate guidance is needed.

PCS Phosphates, a subsidiary of PotashCorp in Canada, has proposed to mine about 15,100 acres on three tracts of land adjacent to its existing mining and refining operations. The mining site is located on the southern shore of the Pamlico River within the Albermarle-Pamlico National Estuary. PCS Phosphates is the largest employer in Beaufort County and one of the largest in Eastern North Carolina. If the site is developed, it would represent the single largest permitted wetland fill in the history of North Carolina.

Much of the mining site consists of wetlands, especially the two northern portions known as the NCPC tract and the Bonnerton tract, which contain primary nursing areas (PNAs) for fisheries. EPA has been concerned about the impacts on the PNAs of the loss of wetlands and streams and has sought additional protection of wetlands bordering these areas to avoid harm to fisheries resources.

The permitting process has been long and tortuous, with the company over time substantially reducing the acres of impacted wetlands as a result of discussions with the Army Corps and the State of North Carolina. Because it felt additional avoidance was needed, Mike Shapiro on March 15 elevated the permit under 404(q) for direct consideration by the Acting Assistant Secretary for Civil Works (now Rock Salt). Following additional meetings between PCS, EPA and the Corps, the company has offered additional avoidance near the PNAs (34.7 acres of wetlands, 47 acres of uplands) and to establish permanent conservation easements on the tidal creeks and 100 foot buffers. In addition, EPA, the Corps and the resource agencies (NMFS and FWS) are working on permit conditions to improve reclamation and the adaptive management provisions that will allow for federal oversight of environmental impacts as mining proceeds.

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Thanks!

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 5/28/2009 3:23:46 PM
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

OK - let me know.

----- Original Message -----

From: Bob Sussman

Sent: 05/28/2009 11:16 AM EDT

To: Richard Windsor

Cc: Arvin Ganesan; Diane Thompson; Scott Fulton

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

These are all good issues and we will address them, I will let about getting more time. I think we will have to invoke your name to make our case.

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US

To: Scott Fulton/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA

Cc: Arvin Ganesan/DC/USEPA/US@EPA

Date: 05/28/2009 09:53 AM

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

Deliberative

Tx, Lj

----- Original Message -----

From: Scott Fulton

Sent: 05/28/2009 08:03 AM EDT

To: Bob Sussman; Diane Thompson; Richard Windsor

Cc: Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

----- Original Message -----

From: Bob Sussman

Sent: 05/28/2009 06:53 AM EDT

To: Diane Thompson; Richard Windsor

Cc: Scott Fulton; Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

----- Original Message -----

From: Diane Thompson

Sent: 05/27/2009 10:46 PM EDT

To: Bob Sussman; Richard Windsor

Cc: Scott Fulton; Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

----- Original Message -----

From: Bob Sussman

Sent: 05/27/2009 07:12 PM EDT

To: Richard Windsor

Cc: Diane Thompson; Scott Fulton; Arvin Ganesan

Subject: Time-Sensitive Decisions on PCS Phosphate

Lisa -- we are at a decision-point on the PCS Phosphates wetlands matter in North Carolina and your immediate guidance is needed.

PCS Phosphates, a subsidiary of PotashCorp in Canada, has proposed to mine about 15,100 acres on three tracts of land adjacent to its existing mining and refining operations. The mining site is located on the southern shore of the Pamlico River within the Albermarle-Pamlico National Estuary. PCS Phosphates is the largest employer in Beaufort County and one of the largest in Eastern North Carolina. If the site is developed, it would represent the single largest permitted wetland fill in the history of North Carolina.

Much of the mining site consists of wetlands, especially the two northern portions known as the NCPC tract and the Bonnerton tract, which contain primary nursing areas (PNAs) for fisheries. EPA has been concerned about the impacts on the PNAs of the loss of wetlands and streams and has sought additional protection of wetlands bordering these areas to avoid harm to fisheries resources.

The permitting process has been long and tortuous, with the company over time substantially reducing the acres of impacted wetlands as a result of discussions with the Army Corps and the State of North Carolina. Because it felt additional avoidance was needed, Mike Shapiro on March 15 elevated the permit under 404(q) for direct consideration by the Acting Assistant Secretary for Civil Works (now Rock Salt). Following additional meetings between PCS, EPA and the Corps, the company has offered additional avoidance near the PNAs (34.7 acres of wetlands, 47 acres of uplands) and to establish permanent conservation easements on the tidal creeks and 100 foot buffers. In addition, EPA, the Corps and the resource agencies (NMFS and FWS) are working on permit conditions to improve reclamation and the adaptive management provisions that will allow for federal oversight of environmental impacts as mining proceeds.

Deliberative

Deliberative

Thanks!

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 5/28/2009 10:56:47 PM
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Thx.

----- Original Message -----

From: Bob Sussman
Sent: 05/28/2009 06:55 PM EDT
To: Richard Windsor
Cc: Arvin Ganesan; Diane Thompson; Scott Fulton
Subject: Re: Time-Sensitive Decisions on PCS Phosphate
Rock has agreed to an extension through Wednesday morning. I know that's tight but it's the best I could do.

In the meantime, we will get answers to your questions and keep the long-distance dialogue going.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA
Date: 05/28/2009 11:23 AM
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

OK - let me know.

----- Original Message -----

From: Bob Sussman
Sent: 05/28/2009 11:16 AM EDT
To: Richard Windsor
Cc: Arvin Ganesan; Diane Thompson; Scott Fulton
Subject: Re: Time-Sensitive Decisions on PCS Phosphate
These are all good issues and we will address them, I will let about getting more time. I think we will have to invoke your name to make our case.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US
To: Scott Fulton/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Cc: Arvin Ganesan/DC/USEPA/US@EPA
Date: 05/28/2009 09:53 AM
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

Tx, Lj

----- Original Message -----

From: Scott Fulton
Sent: 05/28/2009 08:03 AM EDT
To: Bob Sussman; Diane Thompson; Richard Windsor
Cc: Arvin Ganesan
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 05/28/2009 06:53 AM EDT
To: Diane Thompson; Richard Windsor
Cc: Scott Fulton; Arvin Ganesan
Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Deliberative

Deliberative

----- Original Message -----

From: Diane Thompson

Sent: 05/27/2009 10:46 PM EDT

To: Bob Sussman; Richard Windsor

Cc: Scott Fulton; Arvin Ganesan

Subject: Re: Time-Sensitive Decisions on PCS Phosphate

Bob,

Deliberative

----- Original Message -----

From: Bob Sussman

Sent: 05/27/2009 07:12 PM EDT

To: Richard Windsor

Cc: Diane Thompson; Scott Fulton; Arvin Ganesan

Subject: Time-Sensitive Decisions on PCS Phosphate

Lisa -- we are at a decision-point on the PCS Phosphates wetlands matter in North Carolina and your immediate guidance is needed.

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Deliberative

Deliberative

Thanks!

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 6/3/2009 9:23:14 PM
Subject: Re: quick briefing for call with Senator Durbin

Got it. Tx.

----- Original Message -----

From: Arvin Ganesan

Sent: 06/03/2009 04:14 PM EDT

To: Richard Windsor; Eric Wachter

Subject: quick briefing for call with Senator Durbin

You are slated to do a 5:30 call with Senator Durbin (D-IL). The main reason he is calling you is a parochial, political one. Here's the backstory.

Yesterday, EPA Region Five took an action against BP for CAA violations. In particular, EPA alleges that for calendar years 2003 through 2008 BP failed to manage and treat benzene waste from the facility as required by the national emission standards for hazardous air pollutants. Rep Kirk (R-IL), who represents Chicago, is sending EPA a letter on the Great Lakes, asking for an investigation of all discharges (including CWA related discharges) made by various BP sites into Lake Michigan and the Great Lakes region.

Deliberative

Thanks and please let me know if you get this email.

Arvin

For Immediate Release

No. 09-OPA100

(Chicago – June 2, 2009) U.S. Environmental Protection Agency Region 5 has cited BP Products North America Inc. for alleged Clean Air Act violations at the company's petroleum refinery at 2815 Indianapolis Blvd., Whiting, Ind.

EPA alleges that for calendar years 2003 through 2008 BP failed to manage and treat benzene waste from the facility as required by the national emission standards for hazardous air pollutants. The facility's 2008 report showed that benzene waste was almost 16 times the amount allowed.

These are preliminary findings of violations. To resolve them, EPA may issue a compliance order, assess an administrative penalty or bring suit against the company in federal court. BP has 30 days from receipt of the notice to meet with EPA to discuss resolving the allegations.

Benzene is known to cause cancer in humans. Acute health effects from benzene exposure can include

dizziness and lightheadedness; eye, nose and throat irritation; upset stomach and vomiting; irregular heartbeat; convulsions and death. Ecological effects include death in exposed animal, bird and fish populations and death or reduced growth rate in plant life.

ARVIN R. GANESAN
Deputy Associate Administrator for Congressional Affairs
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;"Diane Thompson" [thompson.diane@epa.gov]; N=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;"Diane Thompson" [thompson.diane@epa.gov]; Diane Thompson" [thompson.diane@epa.gov]; Robert Goulding" [goulding.robert@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 6/3/2009 9:43:34 PM
Subject: Re: quick briefing for call with Senator Durbin

Spoke to him. Cong Mike Quigley (replaced Rahm Emanuel). I agreed to come to an IL delegation lunch at his invitation to talk to them abt happeningsat EPA.

----- Original Message -----

From: Arvin Ganesan

Sent: 06/03/2009 04:14 PM EDT

To: Richard Windsor; Eric Wachter

Subject: quick briefing for call with Senator Durbin

You are slated to do a 5:30 call with Senator Durbin (D-IL). The main reason he is calling you is a parochial, political one. Here's the backstory.

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Deliberative

Thanks and please let me know if you get this email.

Arvin

For Immediate Release

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ARVIN R. GANESAN
Deputy Associate Administrator for Congressional Affairs
United States Environmental Protection Agency
Ganesan.Arvin@epa.gov
(p) 202.564.5200
(f) 202.501.1519

To: "Diane Thompson" [thompson.diane@epa.gov]; Bob Sussman" [Sussman.bob@epa.gov]; Seth Oster" [Oster.Seth@epamail.epa.gov]; Allyn Brooks-Lasure" [Brooks-lasure.allyn@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 6/15/2009 4:28:01 PM
Subject: Fw: E-Clips Weekend Edition
E-Clips - Weekend Edition - June 13, 2009 & June 14, 2009.doc

I would like a one page fact sheet on the WV mercury SWQS. (Confidentially,

Deliberative

Deliberative

Tx, Lj

----- Original Message -----

From: OPA Multimedia E-Clips

Sent: 06/15/2009 11:58 AM EDT

To: E-Clips Distribution; E-Clips Distribution 1; E-Clips Distribution 2; E-Clips Distribution 3; E-Clips R6

Subject: E-Clips Weekend Edition

Good Morning: Here is your daily national news E-Clips document. This is a service provided by HQs Office of Public Affairs. Please note that the table of contents is hyperlinked. This means you may with one click or a combination of holding down the control key and a click on any article listed in the table of content to be taken to that article.

E-Clips contain copyrighted materials and are made available to designated recipients. Neither the E-Clips nor any individual article within may be further distributed.

To: "Diane Thompson" [thompson.diane@epa.gov]; Bob Sussman" [Sussman.bob@epa.gov]; Seth Oster" [Oster.Seth@epamail.epa.gov]; Allyn Brooks-Lasure" [Brooks-lasure.allyn@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 6/15/2009 4:28:01 PM
Subject: Fw: E-Clips Weekend Edition
E-Clips - Weekend Edition - June 13, 2009 & June 14, 2009.doc

I would like a one page fact sheet on the WV mercury SWQS. (Confidentially,

Deliberative

Deliberative

J. Tx, L]

----- Original Message -----

From: OPA Multimedia E-Clips

Sent: 06/15/2009 11:58 AM EDT

To: E-Clips Distribution; E-Clips Distribution 1; E-Clips Distribution 2; E-Clips Distribution 3; E-Clips R6

Subject: E-Clips Weekend Edition

Good Morning: Here is your daily national news E-Clips document. This is a service provided by HQs Office of Public Affairs. Please note that the table of contents is hyperlinked. This means you may with one click or a combination of holding down the control key and a click on any article listed in the table of content to be taken to that article.

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To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 6/22/2009 11:35:19 PM
Subject: Re: PM version of FEMA_EPA letter

All,

Deliberative

----- Original Message -----

From: Bob Sussman

Sent: 06/22/2009 07:02 PM EDT

To: Richard Windsor

Cc: Diane Thompson; Allyn Brooks-LaSure; Arvin Ganesan; Mathy Stanislaus; Scott Fulton

Subject: Fw: PM version of FEMA_EPA letter

Deliberative

Let us know what you think.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 06/22/2009 06:46 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: "Sussman Bob" <sussman.bob@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA
Date: 06/22/2009 05:11 PM
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

----- Original Message -----

From: Matt Straus
Sent: 06/22/2009 05:05 PM EDT
To: Mathy Stanislaus; breen.barry@epa.gov; Randy Deitz
Cc: Ellyn Fine; Jennifer Wilbur
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

----- Forwarded by Matt Straus/DC/USEPA/US on 06/22/2009 04:55 PM -----

From: Matt Straus/DC/USEPA/US
To: "Wright, Roy" <Roy.E.Wright@dhs.gov>
Date: 06/22/2009 02:44 PM
Subject: RE: PM version of FEMA_EPA letter

Roy, any word???

From: "Wright, Roy" <Roy.E.Wright@dhs.gov>
To: Matt Straus/DC/USEPA/US@EPA
Date: 06/22/2009 12:01 PM
Subject: RE: PM version of FEMA_EPA letter

I will get back to you shortly.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]

Sent: Monday, June 22, 2009 10:52 AM

To: Wright, Roy

Subject: RE: PM version of FEMA_EPA letter

Deliberative

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| 06/22/2009 10:13 AM
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| Subject: |
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| RE: PM version of FEMA_EPA letter
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Matt, a little sense of my past week here.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Monday, June 22, 2009 9:23 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: PM version of FEMA_EPA letter

(See attached file: FEMAresponseltr.doc) Roy, we have a few tweaks we would like for you to make to the letter. Can you please get back to me by about 11:30 am this morning if these are OK with you. Mathy Stanislaus will be going into a Senior Staff meeting at 1 pm and I will need to let him know before than whether you can agree with these few changes. Thanx for everything.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 03:18 PM
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| PM version of FEMA_EPA letter
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EPA:

Here is the version that seeks to reconcile the issues from EPA, USACE,
and DHS-NPPD.

I'm willing to facilitate a conference call with the principals this
afternoon if we need to discuss further.

Roy Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Friday, June 19, 2009 11:41 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Roy, I am having trouble getting stuff through to you, but can you
please consider the following additional edit to the letter.

Deliberative

I hope its not to late for you to consider this additional edit.
Thanx.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| Date: |
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|06/19/2009 10:51 AM
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| Subject: |
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| Re: Conference Call Today at 4 pm
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We are, indeed, including your suggested edits.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Wright, Roy <Roy.E.Wright@dhs.gov>
Cc: Ingram, Deborah <deborah.ingram@dhs.gov>; Fine.Ellyn@epamail.epa.gov
<Fine.Ellyn@epamail.epa.gov>; Deitz.Randy@epamail.epa.gov
<Deitz.Randy@epamail.epa.gov>
Sent: Fri Jun 19 08:16:26 2009
Subject: RE: Conference Call Today at 4 pm

Roy, I presume in your editing, you are also considering the suggested
edits we sent you the other day.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 08:06 AM
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| RE: Conference Call Today at 4 pm
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Matt,

We received a version back from Counsel last night that still requires a fair bit of editing. I will share a revised version back with you later this morning.

Again, sorry for the delays on our end.

We're also reviewing the Boxer letters from the principals.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Thursday, June 18, 2009 6:21 PM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Any new? We want to get the response out to Sen. Boxer tomorrow and need the letter from Deborah before that goes out. If you could let me know where things stand, that would be great. Thanx.

|----->
| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA, "Ingram, Deborah"
<deborah.ingram@dhs.gov>
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| Cc: |
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| Ellyn Fine/DC/USEPA/US@EPA
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| 06/17/2009 01:28 PM
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| Re: Conference Call Today at 4 pm
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We are awaiting edits from DHS and FEMA General Counsel. Once we have those, we will share them. I apologize for the delay on our end.

We look forward to seeing the draft of the response from the principals and the fact sheet.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Ingram, Deborah <deborah.ingram@dhs.gov>
Cc: Fine.Ellyn@epamail.epa.gov <Fine.Ellyn@epamail.epa.gov>; Wright, Roy <Roy.E.Wright@dhs.gov>
Sent: Wed Jun 17 13:26:01 2009
Subject: RE: Conference Call Today at 4 pm

Wanted to just touch base to see when we are likely to hear back from you on the suggested edits we sent you on your letter yesterday evening. Also, on the letter to Senator Boxer, we have a draft and expect to circulate it through the Congressional Affairs offices hopefully this afternoon. Also, we discussed preparing a Fact Sheet that we thought it important for you to review. We also hope to send that over this afternoon, also probably through the Congressional Affairs office. Please email or call me (202-566-0178) if you have any questions. Thanx.

|----->
| From: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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| Ellyn Fine/DC/USEPA/US@EPA, "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| 06/16/2009 12:45 PM
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| RE: Conference Call Today at 4 pm
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Thanks. On my end, I'll likely have Roy Wright, Deputy Director, Risk
Reduction Division/Mitigation.

We will talk to you at 4:00.

Deb Ingram
Acting Deputy Assistant Administrator
Mitigation Directorate
FEMA/DHS
202-646-2856

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Tuesday, June 16, 2009 12:38 PM
To: Ingram, Deborah
Cc: Fine.Ellyn@epamail.epa.gov
Subject: Conference Call Today at 4 pm

Per our discussion, the Conference call on the letter that you plan to send to EPA will be with Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response, Barry Breen, the Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response, Matt Straus, Advisor and Matt Hale, Director of the Office of Resource Conservation and Recovery or Betsy Devlin, Deputy Director of the Materials Recovery and Waste Management Division. The call in number is [Personal Privacy] access code: [Personal Privacy] Please email me or call me (202-566-0178) if you have questions. Thanx.

[attachment "Dam Safety Response to EPA re Coal Ash Dams 061909 pm.doc"
deleted by Matt Straus/DC/USEPA/US]

To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 6/23/2009 1:28:46 AM
Subject: Re: PM version of FEMA_EPA letter

Thx.

----- Original Message -----

From: Arvin Ganesan
Sent: 06/22/2009 09:27 PM EDT
To: Richard Windsor
Subject: Re: PM version of FEMA_EPA letter

Lisa,

Deliberative

Arvin
Sent from my Blackberry Wireless Device

----- Original Message -----

From: Richard Windsor
Sent: 06/22/2009 07:35 PM EDT
To: Bob Sussman
Cc: Diane Thompson; Allyn Brooks-LaSure; Arvin Ganesan; Mathy Stanislaus; Scott Fulton
Subject: Re: PM version of FEMA_EPA letter

All,

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 06/22/2009 07:02 PM EDT
To: Richard Windsor
Cc: Diane Thompson; Allyn Brooks-LaSure; Arvin Ganesan; Mathy Stanislaus; Scott Fulton
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

Deliberative

Let us know what you think.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 06/22/2009 06:46 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: "Sussman Bob" <sussman.bob@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA
Date: 06/22/2009 05:11 PM
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

----- Original Message -----

From: Matt Straus
Sent: 06/22/2009 05:05 PM EDT
To: Mathy Stanislaus; breen.barry@epa.gov; Randy Deitz
Cc: Ellyn Fine; Jennifer Wilbur
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

----- Forwarded by Matt Straus/DC/USEPA/US on 06/22/2009 04:55 PM -----

From: Matt Straus/DC/USEPA/US
To: "Wright, Roy" <Roy.E.Wright@dhs.gov>
Date: 06/22/2009 02:44 PM
Subject: RE: PM version of FEMA_EPA letter

Roy, any word???

From: "Wright, Roy" <Roy.E.Wright@dhs.gov>
To: Matt Straus/DC/USEPA/US@EPA
Date: 06/22/2009 12:01 PM
Subject: RE: PM version of FEMA_EPA letter

I will get back to you shortly.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Monday, June 22, 2009 10:52 AM
To: Wright, Roy
Subject: RE: PM version of FEMA_EPA letter

Deliberative

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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|06/22/2009 10:13 AM
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| Subject: |
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|RE: PM version of FEMA_EPA letter
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Matt, a little sense of my past week here.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Monday, June 22, 2009 9:23 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: PM version of FEMA_EPA letter

(See attached file: FEMAresponseltr.doc) Roy, we have a few tweaks we would like for you to make to the letter. Can you please get back to me by about 11:30 am this morning if these are OK with you. Mathy Stanislaus will be going into a Senior Staff meeting at 1 pm and I will need to let him know before than whether you can agree with these few changes. Thanx for everything.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 03:18 PM
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| PM version of FEMA_EPA letter
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EPA:

Here is the version that seeks to reconcile the issues from EPA, USACE, and DHS-NPPD.

I'm willing to facilitate a conference call with the principals this afternoon if we need to discuss further.

Roy Wright
Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Friday, June 19, 2009 11:41 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Roy, I am having trouble getting stuff through to you, but can you please consider the following additional edit to the letter.

Deliberative

I hope its not to late for you to consider this additional edit.
Thanx.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 10:51 AM
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| Re: Conference Call Today at 4 pm
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We are, indeed, including your suggested edits.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Wright, Roy <Roy.E.Wright@dhs.gov>
Cc: Ingram, Deborah <deborah.ingram@dhs.gov>; Fine.Ellyn@epamail.epa.gov
<Fine.Ellyn@epamail.epa.gov>; Deitz.Randy@epamail.epa.gov
<Deitz.Randy@epamail.epa.gov>
Sent: Fri Jun 19 08:16:26 2009
Subject: RE: Conference Call Today at 4 pm

Roy, I presume in your editing, you are also considering the suggested
edits we sent you the other day.

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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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|06/19/2009 08:06 AM
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| Subject: |
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|RE: Conference Call Today at 4 pm
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Matt,

We received a version back from Counsel last night that still requires a fair bit of editing. I will share a revised version back with you later this morning.

Again, sorry for the delays on our end.

We're also reviewing the Boxer letters from the principals.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Thursday, June 18, 2009 6:21 PM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Any new? We want to get the response out to Sen. Boxer tomorrow and need the letter from Deborah before that goes out. If you could let me

know where things stand, that would be great. Thanx.

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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA, "Ingram, Deborah"
<deborah.ingram@dhs.gov>
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| Ellyn Fine/DC/USEPA/US@EPA
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| Re: Conference Call Today at 4 pm
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We are awaiting edits from DHS and FEMA General Counsel. Once we have those, we will share them. I apologize for the delay on our end.

We look forward to seeing the draft of the response from the principals and the fact sheet.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Ingram, Deborah <deborah.ingram@dhs.gov>
Cc: Fine.Ellyn@epamail.epa.gov <Fine.Ellyn@epamail.epa.gov>; Wright, Roy <Roy.E.Wright@dhs.gov>
Sent: Wed Jun 17 13:26:01 2009
Subject: RE: Conference Call Today at 4 pm

Wanted to just touch base to see when we are likely to hear back from you on the suggested edits we sent you on your letter yesterday evening. Also, on the letter to Senator Boxer, we have a draft and expect to circulate it through the Congressional Affairs offices hopefully this afternoon. Also, we discussed preparing a Fact Sheet that we thought it important for you to review. We also hope to send that over this afternoon, also probably through the Congressional Affairs office. Please email or call me (202-566-0178) if you have any questions. Thanx.

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| From: |
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>
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| To: |

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| Matt Straus/DC/USEPA/US@EPA

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| Ellyn Fine/DC/USEPA/US@EPA, "Wright, Roy" <Roy.E.Wright@dhs.gov>

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| 06/16/2009 12:45 PM

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| RE: Conference Call Today at 4 pm

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Thanks. On my end, I'll likely have Roy Wright, Deputy Director, Risk Reduction Division/Mitigation.

We will talk to you at 4:00.

Deb Ingram
Acting Deputy Assistant Administrator
Mitigation Directorate
FEMA/DHS
202-646-2856

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Tuesday, June 16, 2009 12:38 PM
To: Ingram, Deborah
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Subject: Conference Call Today at 4 pm

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[attachment "Dam Safety Response to EPA re Coal Ash Dams 061909 pm.doc" deleted by Matt Straus/DC/USEPA/US]

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 6/23/2009 1:29:16 AM
Subject: Re: PM version of FEMA_EPA letter

Thx. Forgotten.

----- Original Message -----

From: Bob Sussman
Sent: 06/22/2009 07:44 PM EDT
To: Richard Windsor
Subject: Re: PM version of FEMA_EPA letter
Sorry. We should have told you before.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA
Date: 06/22/2009 07:35 PM
Subject: Re: PM version of FEMA_EPA letter

All,

Deliberative

----- Original Message -----

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Sent: 06/22/2009 07:02 PM EDT
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Subject: Fw: PM version of FEMA_EPA letter

Deliberative

Deliberative

Let us know what you think.

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Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 06/22/2009 06:46 PM -----

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Deliberative

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Deliberative

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I will get back to you shortly.

~Roy

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Sent: Monday, June 22, 2009 10:52 AM
To: Wright, Roy
Subject: RE: PM version of FEMA_EPA letter

Deliberative

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| From: |
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| PM version of FEMA_EPA letter
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Roy Wright
Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| Subject: |
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| Re: Conference Call Today at 4 pm
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Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

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<Fine.Ellyn@epamail.epa.gov>; Deitz.Randy@epamail.epa.gov
<Deitz.Randy@epamail.epa.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA

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|RE: Conference Call Today at 4 pm
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA, "Ingram, Deborah"
<deborah.ingram@dhs.gov>
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| Ellyn Fine/DC/USEPA/US@EPA
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| Re: Conference Call Today at 4 pm
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Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

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To: Ingram, Deborah <deborah.ingram@dhs.gov>
Cc: Fine.Ellyn@epamail.epa.gov <Fine.Ellyn@epamail.epa.gov>; Wright, Roy <Roy.E.Wright@dhs.gov>
Sent: Wed Jun 17 13:26:01 2009
Subject: RE: Conference Call Today at 4 pm

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|----->
| From: |
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|"Ingram, Deborah" <deborah.ingram@dhs.gov>
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| To: |
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|Matt Straus/DC/USEPA/US@EPA
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| Cc: |
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|Ellyn Fine/DC/USEPA/US@EPA, "Wright, Roy" <Roy.E.Wright@dhs.gov>
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|06/16/2009 12:45 PM
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| RE: Conference Call Today at 4 pm

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Thanks. On my end, I'll likely have Roy Wright, Deputy Director, Risk Reduction Division/Mitigation.

We will talk to you at 4:00.

Deb Ingram
Acting Deputy Assistant Administrator
Mitigation Directorate
FEMA/DHS
202-646-2856

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Tuesday, June 16, 2009 12:38 PM
To: Ingram, Deborah
Cc: Fine.Ellyn@epamail.epa.gov
Subject: Conference Call Today at 4 pm

Per our discussion, the Conference call on the letter that you plan to send to EPA will be with Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response, Barry Breen, the Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response, Matt Straus, Advisor and Matt Hale, Director of the Office of Resource Conservation and Recovery or Betsy Devlin, Deputy Director of the Materials Recovery and Waste Management Division. The call in number is Personal Privacy access code Personal Privacy Please email me or call me (202-566-0178) if you have questions. Thanx.

[attachment "Dam Safety Response to EPA re Coal Ash Dams 061909 pm.doc" deleted by Matt Straus/DC/USEPA/US]

To: CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 6/23/2009 12:39:24 PM
Subject: Re: PM version of FEMA_EPA letter

Deliberative

----- Original Message -----

From: Diane Thompson
Sent: 06/23/2009 08:35 AM EDT
To: Richard Windsor
Cc: Bob Sussman
Subject: Re: PM version of FEMA_EPA letter

Deliberative

Diane E. Thompson
Chief of Staff
U. S. Environmental Protection Agency
202-564-6999

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA
Date: 06/22/2009 07:35 PM
Subject: Re: PM version of FEMA_EPA letter

All,

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 06/22/2009 07:02 PM EDT
To: Richard Windsor

Cc: Diane Thompson; Allyn Brooks-LaSure; Arvin Ganesan; Mathy Stanislaus; Scott Fulton
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

Let us know what you think.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 06/22/2009 06:46 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: "Sussman Bob" <sussman.bob@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA
Date: 06/22/2009 05:11 PM
Subject: Fw: PM version of FEMA_EPA letter

Deliberative

----- Original Message -----

From: Matt Straus
Sent: 06/22/2009 05:05 PM EDT
To: Mathy Stanislaus; breen.barry@epa.gov; Randy Deitz
Cc: Ellyn Fine; Jennifer Wilbur
Subject: Fw: PM version of FEMA EPA letter

Deliberative

----- Forwarded by Matt Straus/DC/USEPA/US on 06/22/2009 04:55 PM -----

From: Matt Straus/DC/USEPA/US
To: "Wright, Roy" <Roy.E.Wright@dhs.gov>
Date: 06/22/2009 02:44 PM
Subject: RE: PM version of FEMA_EPA letter

Roy, any word???

From: "Wright, Roy" <Roy.E.Wright@dhs.gov>
To: Matt Straus/DC/USEPA/US@EPA
Date: 06/22/2009 12:01 PM
Subject: RE: PM version of FEMA_EPA letter

I will get back to you shortly.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Monday, June 22, 2009 10:52 AM
To: Wright, Roy
Subject: RE: PM version of FEMA_EPA letter

Deliberative

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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| 06/22/2009 10:13 AM
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| RE: PM version of FEMA_EPA letter
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Matt, a little sense of my past week here.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Monday, June 22, 2009 9:23 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: PM version of FEMA_EPA letter

(See attached file: FEMAresponseltr.doc) Roy, we have a few tweaks we would like for you to make to the letter. Can you please get back to me by about 11:30 am this morning if these are OK with you. Mathy Stanislaus will be going into a Senior Staff meeting at 1 pm and I will need to let him know before than whether you can agree with these few

changes. Thanx for everything.

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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 03:18 PM
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| PM version of FEMA_EPA letter
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EPA:

Here is the version that seeks to reconcile the issues from EPA, USACE,
and DHS-NPPD.

I'm willing to facilitate a conference call with the principals this
afternoon if we need to discuss further.

Roy Wright
Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Friday, June 19, 2009 11:41 AM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Roy, I am having trouble getting stuff through to you, but can you
please consider the following additional edit to the letter.

Deliberative

I hope its not to late for you to consider this additional edit.
Thanx.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>

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| To: |
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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| 06/19/2009 10:51 AM
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| Re: Conference Call Today at 4 pm
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We are, indeed, including your suggested edits.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Wright, Roy <Roy.E.Wright@dhs.gov>
Cc: Ingram, Deborah <deborah.ingram@dhs.gov>; Fine.Ellyn@epamail.epa.gov
<Fine.Ellyn@epamail.epa.gov>; Deitz.Randy@epamail.epa.gov
<Deitz.Randy@epamail.epa.gov>
Sent: Fri Jun 19 08:16:26 2009
Subject: RE: Conference Call Today at 4 pm

Roy, I presume in your editing, you are also considering the suggested
edits we sent you the other day.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA
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| "Ingram, Deborah" <deborah.ingram@dhs.gov>, Ellyn
Fine/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA
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|06/19/2009 08:06 AM
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|RE: Conference Call Today at 4 pm
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Matt,

We received a version back from Counsel last night that still requires a fair bit of editing. I will share a revised version back with you later this morning.

Again, sorry for the delays on our end.

We're also reviewing the Boxer letters from the principals.

~Roy

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Thursday, June 18, 2009 6:21 PM
To: Wright, Roy
Cc: Ingram, Deborah; Fine.Ellyn@epamail.epa.gov;
Deitz.Randy@epamail.epa.gov
Subject: Re: Conference Call Today at 4 pm

Any new? We want to get the response out to Sen. Boxer tomorrow and need the letter from Deborah before that goes out. If you could let me know where things stand, that would be great. Thanx.

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| From: |
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| "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| Matt Straus/DC/USEPA/US@EPA, "Ingram, Deborah"
<deborah.ingram@dhs.gov>
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| Ellyn Fine/DC/USEPA/US@EPA
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| Re: Conference Call Today at 4 pm
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We are awaiting edits from DHS and FEMA General Counsel. Once we have those, we will share them. I apologize for the delay on our end.

We look forward to seeing the draft of the response from the principals and the fact sheet.

Roy E. Wright

Deputy Director | Risk Analysis Division | Mitigation Directorate |
Federal Emergency Management Agency | 202.646.3461

----- Original Message -----

From: Straus.Matt@epamail.epa.gov <Straus.Matt@epamail.epa.gov>
To: Ingram, Deborah <deborah.ingram@dhs.gov>
Cc: Fine.Ellyn@epamail.epa.gov <Fine.Ellyn@epamail.epa.gov>; Wright, Roy <Roy.E.Wright@dhs.gov>
Sent: Wed Jun 17 13:26:01 2009
Subject: RE: Conference Call Today at 4 pm

Wanted to just touch base to see when we are likely to hear back from you on the suggested edits we sent you on your letter yesterday evening. Also, on the letter to Senator Boxer, we have a draft and expect to circulate it through the Congressional Affairs offices hopefully this afternoon. Also, we discussed preparing a Fact Sheet that we thought it important for you to review. We also hope to send that over this afternoon, also probably through the Congressional Affairs office. Please email or call me (202-566-0178) if you have any questions. Thanx.

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| From: |

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| "Ingram, Deborah" <deborah.ingram@dhs.gov>
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| To: |

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| Matt Straus/DC/USEPA/US@EPA
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| Ellyn Fine/DC/USEPA/US@EPA, "Wright, Roy" <Roy.E.Wright@dhs.gov>
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| 06/16/2009 12:45 PM
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| RE: Conference Call Today at 4 pm

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Thanks. On my end, I'll likely have Roy Wright, Deputy Director, Risk Reduction Division/Mitigation.

We will talk to you at 4:00.

Deb Ingram
Acting Deputy Assistant Administrator
Mitigation Directorate
FEMA/DHS
202-646-2856

-----Original Message-----

From: Straus.Matt@epamail.epa.gov [mailto:Straus.Matt@epamail.epa.gov]
Sent: Tuesday, June 16, 2009 12:38 PM
To: Ingram, Deborah
Cc: Fine.Ellyn@epamail.epa.gov
Subject: Conference Call Today at 4 pm

Per our discussion, the Conference call on the letter that you plan to send to EPA will be with Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response, Barry Breen, the Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response, Matt Straus, Advisor and Matt Hale, Director of the Office of Resource Conservation and Recovery or Betsy Devlin, Deputy Director of the Materials Recovery and Waste Management Division. The call in number is Personal Privacy access code Personal Privacy Please email me or call me (202-566-0178) if you have questions. Thanx.

[attachment "Dam Safety Response to EPA re Coal Ash Dams 061909 pm.doc"
deleted by Matt Straus/DC/USEPA/US]

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 6/24/2009 6:00:24 PM
Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report
http://cei.org/cei_files/fm/active/0/Endangerment%20Comments%206-23-09.pdf

Congrats! OPA is all over this. No worries.

----- Original Message -----

From: Scott Fulton
Sent: 06/24/2009 01:25 PM EDT
To: Richard Windsor
Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report
On my way back to the office. Will check this out and help Diane make sure level heads prevail. Hearing went fine. Nothing too difficult, and none of the hard stuff we worried about, but we'll see what the written questions bear. We'll keep the place glued together until you get back.

----- Original Message -----

From: Richard Windsor
Sent: 06/24/2009 12:58 PM EDT
To: Seth Oster; Diane Thompson; Lisa Heinzerling; Marcia Mulkey; Bob Sussman; Arvin Ganesan; Scott Fulton
Cc: Allyn Brooks-LaSure; Adora Andy
Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report

Deliberative

----- Original Message -----

From: Seth Oster
Sent: 06/24/2009 12:46 PM EDT
To: Richard Windsor; Diane Thompson; Lisa Heinzerling; Marcia Mulkey; Bob Sussman; Arvin Ganesan; Scott Fulton
Cc: Allyn Brooks-LaSure; Adora Andy
Subject: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report
The senior economist from OPEI has also apparently gone to a public policy group, which as issued the press release below.

We had the Dow Jones issue almost under control, but now the issue is out in the open. Washington Post and others are calling.

We are issuing our statement (amended with a bit more information we received this morning) and will be working this with reporters the rest of the day.

Seth

Competitive Enterprise Institute contact: Audrey Mullen at 703-548-1160

www.cei.org

EPA Suppresses Internal Global Warming Study

CEI Calls for Agency to Release Concealed Report

Washington, D.C. -- The Competitive Enterprise Institute today charged that a senior official of the U.S. Environment Protection Agency actively suppressed a scientific analysis of climate change because of political pressure to support the Administration's policy agenda of regulating carbon dioxide.

As part of a just-ended public comment period, CEI submitted a set of four EPA emails, dated March 12-17, 2009, which indicate that a significant internal critique of the agency's global warming position was put under wraps and concealed.

The study the emails refer to, which ran counter to the administration's views on carbon dioxide and climate change, was kept from circulating within the agency, was never disclosed to the public, and was not added to the body of materials relevant to EPA's current "endangerment" proceeding. The emails further show that the study was treated in this manner not because of any problem with its quality, but for political reasons.

The emails may be seen here: http://cei.org/cei_files/fm/active/0/Endangerment%20Comments%206-23-09.pdf

"This suppression of valid science for political reasons is beyond belief," said CEI General Counsel Sam Kazman. "EPA's conduct is even more outlandish because it flies in the face of the President's widely-touted claim that 'the days of science taking a back seat to ideology are over.'"

CEI's filing requests that EPA make the suppressed study public, place it into the endangerment docket, and extend the comment period to allow public response to the new information. CEI is also requesting that EPA publicly declare that it will engage in no reprisals against the study's author, a senior analyst who has worked at EPA for over 35 years.

CEI is a non-profit, non-partisan public policy group dedicated to the principles of free enterprise and limited government. For more information about CEI, please visit our website at www.cei.org.

-30-

Audrey Mullen
Advocacy Ink
815 King Street – Suite 302
Alexandria, VA 22314
Ph. 703-548-1160
Cell **Personal Privacy**

www.advocacyink.com

To: CN=Gregory Peck/OU=DC/O=USEPA/C=US@EPA[]
Cc: "Michael Boots" [Personal Privacy] mklasen" [Personal Privacy] Allyn Brooks-LaSure" [Brooks-LaSure.Alyn@epamail.epa.gov]; Seth Oster" [Oster.Seth@epamail.epa.gov]
Bcc: CN=Richard Windsor/OU=DC/O=USEPA/C=US[]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Fri 7/3/2009 7:58:33 PM
Subject: Re: RFK jr - A President Breaks Hearts in Appalachia
[twp logo 300.gif](#)
[Hotspot](#)
[weighed in](#)

A small but important point: contrary to Kennedy, we are not allowing 100 permits to go forward but are reviewing them very carefully. It may be worth bringing this to Kennedy's attention.

From: Gregory Peck
Sent: 07/03/2009 10:44 AM EDT
To: Bob Sussman
Cc: "Michael Boots" [Personal Privacy]
Subject: Fw: RFK jr - A President Breaks Hearts in Appalachia

Gregory E. Peck
Chief of Staff
Office of Water
U.S. E.P.A.

From: "cindyrank" [clrank@hughes.net]
Sent: 07/03/2009 09:40 AM AST
To: John Pomponio; John Forren; "Hoffman.William@epamail.epa.gov" [Personal Privacy]
Gregory Peck
Subject: Fw: RFK jr - A President Breaks Hearts in Appalachia

FYI -- In case you haven't seen it....
-- good to see a couple of you the other day.
cindy

A President Breaks Hearts in Appalachia

By Robert F. Kennedy Jr.
Friday, July 3, 2009

Mountaintop removal coal mining is the worst environmental tragedy in American history. When will the Obama administration finally stop this Appalachian apocalypse?

If ever an issue deserved President Obama's promise of change, this is it. Mining syndicates are detonating 2,500 tons of explosives each day -- the equivalent of a Hiroshima bomb weekly -- to blow up Appalachia's mountains and extract sub-surface coal seams. They have demolished 500 mountains -- encompassing about a million acres -- buried hundreds of valley streams under tons of rubble, poisoned and uprooted countless communities, and caused widespread contamination to the region's air and water. On this continent, only Appalachia's rich woodlands survived the Pleistocene ice ages that turned the rest of North America into a treeless tundra. King Coal is now accomplishing what the glaciers could not -- obliterating the hemisphere's oldest, most biologically dense and diverse forests. Highly mechanized processes allow giant machines to flatten in months mountains older than the Himalayas -- while employing fewer workers for far less time than other types of mining. The coal industry's promise to restore the desolate wastelands is a cruel joke, and the industry's fallback position, that the flattened landscapes will provide space for economic development, is the weak punchline. America adores its Adirondacks and reveres the Rockies, while the Appalachian Mountains -- with their impoverished and alienated population -- are dismantled by coal moguls who dominate state politics and have little to prevent them from blasting the physical landscape to smithereens.

Obama promised science-based policies that would save what remains of Appalachia, but last month senior administration officials finally weighed in with a mixture of strong words and weak action that broke hearts across the region. The modest measures federal bureaucrats promised amount to little more than a tepid pledge of better enforcement of existing laws.

And government claims of doing everything possible to halt the holocaust are simply not true. George Bush gutted Clean Water Act protections. Obama must restore them.

First, the White House should fix the "fill" rule the Bush administration adopted in 2002 to allow coal companies to use streams as waste dumps. Under this perverse interpretation of the Clean Water Act, 2,000 miles of Appalachian streams have been interred under mining waste. Obama could reverse the "fill" rule to reflect its original meaning, which forbids waste matter from being dumped into waterways.

Second, the Interior Department should strictly enforce the widely ignored "buffer zone" rule that forbids dumping waste within 100 feet of intermittent or perennial streams.

Third, our laws require companies to restore mined areas to their original condition. The administration should end the absurd fiction that extraction pits filled with unconsolidated rocks and rubble where trees will never grow and streams will never flow are "reclaimed."

Fourth, current law forbids the issuance of "fill" permits that will cause "significant degradation" to waterways. It is absurd for the Army Corps of Engineers to endorse the canard that filling miles of streams is not causing significant degradation. The president should require the Corps to deny and rescind permits where operations will cause downstream damage.

Fifth, the Clean Water Act requires mining operators to prove that they can restore the "function and structure" of affected streams. Operators have never been compelled to make the functional or structural analyses of the aquatic ecosystem required by the act. Obama should order his officials to stop ignoring this requirement.

Sixth, the administration should enforce the law requiring an environmental impact study for each permit when a mine "may have significant environmental impacts," individually or cumulatively. The Corps of Engineers routinely allows coal operators to escape this mandate -- an illegal practice that should stop.

Instead of acting to enforce these laws, administration officials indicated last month that they will allow more than 100 permits to go forward while they carefully review their regulatory options. If they act accordingly, the ruined landscapes of Appalachia will be Obama's legacy.

President Obama should go to Appalachia and see mountaintop removal. My father visited Appalachia in 1966 and was so horrified by strip mining -- then in its infancy -- that he made it a key priority of his political agenda. He complained that Appalachia, with our nation's richest natural resources, was home to America's poorest populations, its worst education system, and its highest illiteracy and unemployment rates. These statistics are even grimmer today as mining saps state wealth. In 1966, 46,000 West Virginia miners were collecting salaries and pensions and reinvesting in their communities. Mechanization has shrunk that number to fewer than 11,000. They extract more coal annually, but virtually all the profits leave the state for Wall Street.

The coal industry provides only 2 percent of the jobs in Central Appalachia. Wal-Mart employs more people than the coal companies in West Virginia. Last week a major study documented how coal imposes a net cost to Kentucky of more than \$100 million per year. Coal is not an economic engine in the coalfields. It is an extraction engine.

Obama has the authority to end mountaintop removal, without further action from Congress and without formal rulemaking. He just needs to make the coal barons obey the law.

The Washington Post

To: CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
Cc: "Seth Oster" [oster.seth@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 7/8/2009 5:57:26 PM
Subject: Re: Inside EPA -- Question about NPDES / ICIS meeting yesterday

Reporter should be told that he has inaccurate information (no details).

----- Original Message -----

From: Diane Thompson
Sent: 07/08/2009 01:55 PM EDT
To: Seth Oster; Allyn Brooks-LaSure
Cc: Richard Windsor
Subject: Fw: Inside EPA -- Question about NPDES / ICIS meeting yesterday
FYI

Diane E. Thompson
Chief of Staff
U. S. Environmental Protection Agency
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 07/08/2009 01:54 PM -----

From: Catherine McCabe/DC/USEPA/US
To: Linda Travers/DC/USEPA/US@EPA, Maryann Froehlich/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Cynthia Giles/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Date: 07/08/2009 01:01 PM
Subject: Fw: Inside EPA -- Question about NPDES / ICIS meeting yesterday

Heads-up -- it looks like there's been a leak to Inside EPA (albeit an inaccurate one) about the ICIS-NPDES modernization meeting yesterday. See e-mail traffic below. We plan to proceed as quickly as possible with the communications strategy directed by the Administrator for the states.

Catherine R. McCabe
Principal Deputy Assistant Administrator
U.S. EPA, Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., N.W. (Ariel Rios South, Rm 3204)
Washington, D.C. 20460
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

----- Forwarded by Catherine McCabe/DC/USEPA/US on 07/08/2009 12:55 PM -----

From: Lisa Lund/DC/USEPA/US
To: John Dombrowski/DC/USEPA/US@EPA, "David Hindin" <hindin.david@epa.gov>, "Catherine McCabe" <mccabe.catherine@epa.gov>
Date: 07/08/2009 12:48 PM
Subject: Re: Inside EPA -- Question about NPDES / ICIS meeting yesterday

I think Laura should just respond that it was an internal EPA meeting and not try to correct the reporter. Then we can move forward with Lisa's instructions on how to announce. I will call the 4 Commissioners on Friday unless Cynthia wants to do it at the political level. I will try to check with her while we are in Philly. We should try to get the letter out next week.

Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: John Dombrowski

Sent: 07/08/2009 12:40 PM EDT

To: Laura Gentile

Cc: Deb Berlin; Lisa Lund; Michael Barrette

Subject: Re: Inside EPA -- Question about NPDES / ICIS meeting yesterday

Laura - First, the reporter has it wrong on the decision. Also, the Administrator gave us specific directions on how we move forward and communicate this decision to the states first. So we really should not go public until we complete her direction. Call me and I can explain.

Thanks,

John M. Dombrowski, P.E.

Acting Director

Enforcement Targeting and Data Division, OECA/OC

Tele. 202-566-0742

From: Laura Gentile/DC/USEPA/US

To: Lisa Lund/DC/USEPA/US@EPA, John Dombrowski/DC/USEPA/US@EPA, Michael Barrette/DC/USEPA/US@EPA

Cc: Deb Berlin/DC/USEPA/US@EPA

Date: 07/08/2009 12:08 PM

Subject: Inside EPA -- Question about NPDES / ICIS meeting yesterday

Hey Lisa, John and Mike -

Anthony Lacey contacted OPA about a meeting at EPA yesterday organized by Linda Travers yesterday.

I understand that this meeting was regarding NPDES/ICIS. Lacey understands that we "finally settled on a modified Alternative 2 that states strongly oppose."

Lacey wants to know why EPA chose this approach.

My question: was this an open meeting? If not, then it sounds like Anthony may have obtained information that is not yet public. If so, we can respond accordingly ("this information is privileged/deliberative/part of our internal process, etc.).

Thanks a lot, Lisa

Laura

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;"Bob Sussman"
[Sussman.bob@epa.gov]; Bob Sussman" [Sussman.bob@epa.gov]; Diane Thompson"
[thompson.diane@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 7/21/2009 12:13:32 PM
Subject: Re: Budget Decisions - follow up questions

Deliberative

----- Original Message -----

From: Scott Fulton

Sent: 07/20/2009 03:42 PM EDT

To: Richard Windsor

Cc: "Bob Sussman" <Sussman.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>

Subject: Budget Decisions - follow up questions

Hi Lisa - Thanks again for the earlier input. We are incorporating your thoughts and reactions. A few issues from your note and our meeting with OCFO this morning.

Deliberative

Deliberative

I'm probably giving you more than you can process on a day like this, but any impressions you have would be welcomed.

Cheers,
Scott

[attachment "agenda2011forum72309.doc" deleted by Richard Windsor/DC/USEPA/US]
[attachment "Contract Spending 2007- 2009 (excl reim).xls" deleted by Richard Windsor/DC/USEPA/US]
[attachment "Travel Detail Statistics 2004 thru 2009a v2.xls" deleted by Richard Windsor/DC/USEPA/US]
[attachment "TRAVEL FACT SHEET.doc" deleted by Richard Windsor/DC/USEPA/US]

From: Richard Windsor/DC/USEPA/US
To: "Scott Fulton" <Fulton.Scott@epamail.epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>
Date: 07/20/2009 08:07 AM
Subject: Budget Decisions

Deliberative

Deliberative

Hope this helps.

Lisa

To: windsor.richard@epa.gov[]
From: CN=Adora Andy/OU=DC/O=USEPA/C=US
Sent: Mon 8/10/2009 7:50:40 PM
Subject: the 1 in 50 cancer ratio
[EPA-HQ-RCRA-2006-0796-0009.pdf](#)

From: Leo Francendese
Sent: 08/10/2009 03:36 PM EDT
To: terry.carl@epa.gov
Cc: hill.franklin@epa.gov; andy.adora@epa.gov; adams.glenn@epa.gov
Subject: Fw: the 1 in 50 cancer ratio

cbs followup to my request
will discuss as needed

-----Forwarded by Leo Francendese/R4/USEPA/US on 08/10/2009 03:35PM -----

To: Leo Francendese/R4/USEPA/US@EPA
From: "Liu, Kathy" <LiuK@cbsnews.com>
Date: 08/10/2009 02:19PM
cc: "Bar-On, Shachar" <BaronS@cbsnews.com>
Subject: the 1 in 50 cancer ratio

Hi Leo,

Attached is the EPA risk assessment where we got the 1 in 50 cancer risk ratio from. It is a 333-page document, so I'll point you to what environmental attorneys have pointed to on Page 4-11 of the report:

"For codisposed CCW and coal refuse in surface impoundments, arsenic cancer risks are 2×10^{-2} for unlined units, 7×10^{-3} for clay-lined units, and below the risk criteria for composite-lined units at the 90th percentile. Noncancer hazard quotients at the 90th percentile exceeded 1 for cadmium (9), cobalt (8), lead (9), and molybdenum (3) in unlined units, and cadmium (3), cobalt (3), and molybdenum (2) in clay-lined units. None of the risk criteria were exceeded at the 90th percentile in composite-lined units. As noted above, codisposal of CCW and coal refuse in surface impoundments results in risks up to 10-fold greater than those seen for conventional CCW managed in surface impoundments. This is likely due to the higher metal concentrations and the acidity of coal refuse leachate for surface impoundments in the CCW database."

So we were told by the attorneys that "arsenic cancer risks are 2×10^{-2} for unlined units" means a 2 in 100 risk or 1 in 50 risk.

Let me know what you think....

Thanks,

Kathy Liu

Associate Producer

60 Minutes

555 West 57th Street

9th Floor

New York , New York 10019

Tel +1 212-975-2169

Fax +1 212-975-9353

To: "Chuck Fox" [Fox.Chuck@epamail.epa.gov]; Peter Silva
[Silva.Peter@epamail.epa.gov]; Bob Sussman" [Sussman.bob@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 8/14/2009 9:02:38 PM
Subject: Fw: Chesapeake Bay E.O.
Section 202B Draft 81309 final.pdf

Here ya go!

----- Original Message -----

From: Lawrence Elworth
Sent: 08/14/2009 04:58 PM EDT
To: Richard Windsor
Subject: Fw: Chesapeake Bay E.O.

Here is the report I had my office send - since we don't have cell phone or TV reception where I live I had to come into town to send it - sorry for the delay

----- Original Message -----

From: Alicia Kaiser
Sent: 08/14/2009 04:55 PM EDT
To: Bob Sussman; Chuck Fox; Peter Silva
Cc: Lawrence Elworth
Subject: Chesapeake Bay E.O.

Hi all,

Larry asked me to forward this to you . It came in last night after he had left for North Carolina. He will forward a copy to the Administrator. He has not had a chance to look at it yet.

Thanks,

Alicia N. Kaiser
Special Assistant for Agricultural Policy
U.S. Environmental Protection Agency
Phone: (202) 564-7273
Fax: (202) 564-2889

To: "Lisa Heinzerling" [heinzerling.lisa@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 8/26/2009 7:05:37 PM
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing
NPL Red Devil Accept Changes 26 Aug 2009.doc

----- Original Message -----

From: Mathy Stanislaus
Sent: 08/26/2009 02:59 PM EDT
To: Richard Windsor
Cc: Diane Thompson
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing
Here's some background on the Region 10 site that OMB has objected to

----- Original Message -----

From: Barnes Johnson
Sent: 08/26/2009 12:57 PM EDT
To: Mathy Stanislaus; Barry Breen; James Woolford
Cc: Antoinette Powell-Dickson
Subject: Red Devil Mine - Interagency Opposition to Superfund NPL Listing
Dear Mathy - per your request.

Dear XXXX,

EPA has put forward a package of proposed and final Superfund/CERCLA National Priorities List (NPL) sites for interagency review by the Office of Management and Budget (OMB). OMB has approved recently a group of proposed and final NPL sites. However, OMB and the Bureau of Land Management (BLM) within the Department of the Interior continue to oppose the proposed listing of Red Devil Mine on the NPL as a federal facility. We understand that Bob Abby, BLM Director and Sally Erickson at OMB are being apprised of this issue.

Red Devil Mine is a former mercury mine (operated intermittently from 1933 – 1971) located in a remote part of western Alaska, on the south side of the Kuskokwim River. It contains tailings piles, saturated tailings in the adjacent Red Devil Creek, areas of contaminated surface soils, and a surface impoundment. These sources have impacted Red Devil Creek and the Kuskokwim River with elevated levels of mercury, arsenic and other heavy metals. The mine is entirely on BLM property. No private leases were ever awarded. There is a human health risk based on fish caught for human consumption in the Kuskokwim River. Mercury has been found in fish tissue and 23 native Alaskan tribes are subsistence fishers of the Kuskokwim. The State of Alaska Department of Environmental Quality, after working for years with BLM, has asked EPA to pursue listing. BLM, due to lack of funds, has been ineffective in dealing with the site, performing a series of removals which have made the situation worse and left the mercury contamination unaddressed.

Deliberative

Deliberative

Barnes Johnson | U.S. Environmental Protection Agency | Superfund | Tel 703 603 8960 | Fax 703 603 9146 |
johnson.barnes@epa.gov

To: "Windsor, Richard" [Windsor.richard@epa.gov]; Fulton, Scott" [fulton.scott@epa.gov]; Thompson, Diane" [thompson.diane@epa.gov]; Sussman, Bob" [sussman.bob@epa.gov]; Heinzerling, Lisa" [Heinzerling.Lisa@epamail.epa.gov]; N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Sarah Pallone/OU=DC/O=USEPA/C=US@EPA;"Hooks, Craig" [hooks.craig@epa.gov]; N=Sarah Pallone/OU=DC/O=USEPA/C=US@EPA;"Hooks, Craig" [hooks.craig@epa.gov]; Hooks, Craig" [hooks.craig@epa.gov]
Cc: "Oster, Seth" [oster.seth@epa.gov]
From: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US
Sent: Sat 8/29/2009 12:26:00 AM
Subject: Weekly Wrap - Friday, 8/28/09

Below are media inquiries fielded by OPA this week.

V/R,

MABL.

M. Allyn Brooks-LaSure
Office of the Administrator
U.S. Environmental Protection Agency
Cell: **Personal Privacy**

----- Original Message -----

From: Seconda Tyson
Sent: 08/28/2009 06:48 PM EDT
To: Allyn Brooks-LaSure; Adora Andy; Michael Thiem; Roxanne Smith
Subject: Weekly Wrap - Friday, 8/28/09

Administration and Resources Management

Government Executive Magazine: Foner with Sharon Ridings re: continuing ed at EPA. Closed.

Science mag: Sent photo release from Larry Reiter for article about science jobs in government. Closed.

Agriculture

Agritalk Radio: Awaiting Adora's office response on getting Larry Elworth for interview on ag issues. Open.

WSJ: Did "On background" informational phone interview Aug. 25 on enforcement aspect of animal feeding operation (CAFO) rules. Closed.

Air

AP (LA): Awaiting more info from reporter on PM 2.5 concentrations at monitoring stations throughout the country. Open.

AP: Told them EPA does not track selling of carbon offsets. Closed.

AP: Status of EPA approval of hydrocarbon freezers for use by Ben & Jerry's. Interview with Drusilla Hufford, freezers will be approved. Closed.

Argus Media: GHG reporting rule. Open.

Bloomberg News: Writing on the ethanol "blend wall" decision Administrator Jackson said will happen in November. I'm looking for info on the process of the decision and the studies/comments etc. that go into making it. Sent him to regulations.gov to see the docket, which he will read. Had follow up questions. Open.

BNA: Interview request with Gina McCarthy. Open.

BNA: Reporter never followed up on whether carbon dioxide will be subject to prevention of significant deterioration (PSD) regs. Closed.

BNA, Argus Media: Is EPA going to propose PSD rules in September along with the vehicle emissions rulemaking? It will be consistent with Lisa Jackson's statements that you want to concentrate on sources above 25,000 tons. Open.

Coal Report: Wild Earth Guardian, we missed a deadline on plant in Colorado. Open.

Congressional Quarterly, Reuters: Needed an explanation of two EPA announcements, Endangerment and the Auto regs. Sent them our press releases. Closed.

Consumers Digest: I am working a story on future automotive trends. Need to check on some details on the upcoming fuel economy standards. Specifically on how electric hybrids and all-electric cars are treated in computing the fleet averages. Sent statement on the volt and protocol for testing hybrids. Closed.

Cox Communications: Where are we in air monitoring around schools. Open.

Daily Item (Sunbury, Pa.): Sent info on EPA voc rules for auto body paint shops. Closed.

DC Bureau on line: Writing an article on the ocean going vessels rule. Did the interview. Closed.

Fox News: Told them we can't speculate on what will happen, if we make positive endangerment finding on carbon dioxide. Closed.

Freelancer: Book author with Resources for the Future on Waste Isolation Pilot Plant. Interview with WIPP program. No surprises. Closed.

Greenrightnow: What's next for cash for clunkers? Don't know, ask NHTSA. Gave media contacts there. Closed.

Greenwire: Sent EPA tree-planting climate change analysis referred to in USA Today story. Closed.

Greenwire: Will the GHG rule for light vehicles include trucks? The proposal includes light duty trucks, such as SUVs and small pick-up trucks. However, it doesn't include heavy-duty trucks. Closed.

Inside EPA: Did the General Conformity rule go to OMB? Yes. Sent the fact sheet. Closed.

Inside EPA: Induced travel demand impacts on transportation planning. Open.

Inside EPA: PSD aggregation for oil and gas operations. Can't comment on litigation. Closed.

Law 360: Did phone interview with OAR official on proposed ship air emission rule. Closed.

National Journal: RFS2. Sent links to information on the web. Closed.

News Talk 680 WPTF radio: Wants interview on 8/27 for North Carolina's Morning News, Raleigh, N.C. Scott Fitzgerald, the host of the show, would like to talk to someone about the recent crackdown on carbon fraud in Europe and what the EPA expects in regard to 'carbon crime' to happen in the U.S. How is carbon trading regulated and what measures are in place to combat fraud? Since its tax fraud, its not EPA, it's the IRS. Closed.

NYT: Sent desk statement on EPA nitrous oxide activities re: NOAA report on 8/27. Closed.

Reuters: Inquiry came in after hours on Friday night, Aug 22. Does EPA test motorcycles for fuel efficiency? No, just tailpipe emissions. Bikes are very fuel efficient. Closed.

San Francisco Chronicle: Refining lighter crude oil. Need more information. Open.

The Economist and Environmental Health Perspectives: Asking about CAMR and how the implementation of those rules might affect the quality of coal combustion residues produced at the various plants. Sent approved statement and a link to information on the website. Closed.

This Old House magazine: Follow up on VOC's in paint. Verifying methods EPA uses to determine low VOC paint. Closed.

Toronto Star: Electric Vehicles. Open.

Toronto Star: Sent info on driving cycle tests for mpg ratings. Closed.

Transport Topics: Do we want to comment on 2010 engine certification? Open.

USA Today: Told them it's more accurate to say "Portland Cement Plants" rather than "cement plants" in correction of article on mercury deposition into waters. Closed.

Wash. Times: Chamber of Commerce hearing on scientific validity of climate change--referred to Adora. Closed.

Washington Times: Question on electricity rate impact of Waxman-Markey bill. Closed.

WSJ: Sent info on how we'll conduct mpg ratings for electric vehicles. Closed.

Budget

BNA: TSCA budget under new Administration. Open.

Enforcement/Compliance

60 Minutes: Update on enforcement action against Executive Recycling, as an epilogue to a prior story. Closed.

BNA: Follow up questions from Cynthia Giles interview. Responses on number of criminal investigators sent. Closed.

BNA: OECA annual reports from 1988-1990. Sent link to online access. Closed.

Greenwire: Request for second interview on environmental justice for comprehensive piece on EJ history and how

EPA weighs and compares EJ issues. Reporter querying regional EJ offices in addition to HQ. Reporter given written response from Charles Lee, Administrator quote, links to Administrator's EJ speeches and info on new diversity position. Closed.

Hollywood, Health & Society: Background interview on how criminal investigation works for TV pilot on environmental crimes. Open.

NPR: Interview request Monday, 8/31 @ 1:30 p.m. with Adam Kushner on increased enforcement activity against coal-fired power plants. Open.

Pittsburgh Tribune Review: Update on Earth Ecycle illegal exporting case. Sent link to Environmental Appeals Board list of actions on Earth Ecycle. Closed.

Providence Journal: Interview request scheduled 9/11 @ 10 a.m with Rhode Island native, Cynthia Giles. Open.

SNL Power Daily: Asking about EPA's participation in the INTERPOL Pollution Crime Working Group. Julia Lastra, assistant director investigations at EPA is the project leader of the group. Andrew Lauterback, senior criminal enforcement counsel at EPA, chairs the INTERPOL Environment Crime Committee. Open.

Sunday Business Post (Dublin, Ireland): Will EPA fugitive O'Connor be extradited from Malta to the US? Closed.

Environmental Information

BBC Worldwide TV: Declined to help them plan survival team series dealing with environmental disaster scenarios. Closed.

Fair Play Magazine: Enviro ask EPA intervention in blocking ships to be sold for scrapping in Third World countries--referred to Region 3. Closed.

Government Executive Magazine: Questions about glitches in regulations.gov. Closed.

Hampshire Research: TRI data. Open.

Nextgov.com/Government Executive: Agencies affected by the glitch on regulations.gov. Open.

Powerful Media: Wants to list LPJ as one of most influential African Americans--referred to Betsaida. Closed.

Radio América (Washington Metro Area): 10-minute live interview 8/28 on Admin. Jackson's participation in "Read to the Top" finale. Canceled. Closed.

USA Today: No longer interested in our perspective on why rules for underground storage tanks at gas stations are important. Closed.

www.cleanskies.tv: Vague questions about TRI. Producer is revising questions. Producer did not follow up. Closed.

General Counsel

Law360: Comment on Hydro Resources Inc. v. EPA? Court of appeals rehearing case previously awarded to EPA regarding company building uranium mines on Indian property. The only issue is whether EPA is the permitting authority for underground injection control. Hearing in January. Closed.

Hazardous Wastes

AP: Electronic waste data. Open.

AP: EPA's budget for Superfund & Brownfields. Closed.

AP: Interviewed Thea McManus re: Electronic waste data. Closed.

BNA: Are the regions providing brownfields workshops? Closed.

BNA: Interview request 9/10/09 @ 11:15 a.m. re: Mathy Stanislaus. Open.

Environmental Health Perspectives: Coal ash residues. Closed.

Freelancer, Dee Gill: Stats on solid waste collections. Closed.

Inside EPA: Draft rule for coal combustion waste. Closed.

Inside EPA: Munitions cleanup. Closed.

Inside EPA: Requested Superfund conference remarks from J. Woolford & M. Stanislaus. Open.

Inside EPA: Underground storage tanks & higher grades of ethanol. Open.

Inside EPA: Wants info on Mathy Stanislaus letter to stakeholders. Closed.

Problemas Brasileiros: Consumers and pharmaceutical waste. Closed.

Sierra Magazine: Factchecking largest industrial wastestream. Closed.

Supermarket News: Proposal to add pharmaceutical wastes to the universal waste rule. Open.

United Nations Environment Program: Interviewed Debbie Dietrich, Kathy Jones & David Wright (Region 2) on 8/25 re: Emergency management & chemical safety. Closed.

WCPN 90.3 Public Radio: Environmental effects of solid waste. Closed.

Pesticides

Environmental Health News: Additional Q's re: p-dichlorobenzene. Open.

French freelancer: Colony collapse disorder and the pollinator protection team. Sent A's to Q's. Closed.

Greenrightnow.com: Use of pesticides in schools and how much integrated pest management is being practiced. Foner with Sherry Glick. Closed.

Kankaee Journal (Ill.): Answered Q's re: tick-and-flea products. Closed.

Nature mag: Sent A's to Q's re: methyl iodide. Closed.

NYT: Silver dihydrogen sulfate as disinfectant. Sent label info. Closed.

Pest & Tox Chem News: Atrazine monitoring. Closed.

Pest & Tox Chem News: Controversy regarding BASF's headline fungicide label? Sent link to EPA's response. Closed.

Pest & Tox Chem News: Fomesafen draft ecological risk assessment. Sent A's to Q's. Closed.

Pest & Tox Chem News: Q's re: possible hearing about cancellation of carbofuran. Sent A's to Q's. Closed.

Pest & Tox Chem News: Response to letter from NGOs expressing concern over EPA's fumigant rules? Sent response. Closed.

Pesticide and Toxic Chemical News: Prototype permits. Open.

Risk Policy Report: Does the interagency "ONE Committee" on chemicals still exist? Not currently active. Closed.

Vegetable Growers News Magazine: Changes in fumigant rule. Foner projected for next week. Open.

Washington City Paper: Swimming pool disinfectants. Open.

WOIO (Cleveland): Incident data on Sergeants spot-on tick-and-flea products. Data run expected next week. Open.

Recovery Act

Dow Jones: Buy American applications and waivers. Open.

Inside EPA: Water ARRA. Open.

Recycling

New Scientist Magazine: U.S. recycling rates. Closed.

Resource Recycling Magazine: Interviewed Thea McManus re: Recycling issues and state disaster plans. Closed.

Research and Development

60 Minutes: Ongoing interest in phthalates. Open.

BNA: IRIS assessments of inorganic arsenic. Open.

BNA: Requests transcript of Lek Kadeli's (LPJ's?) luncheon comments. Closed.

BNA: Wants to confirm data in a draft ETEB assessment. Closed.

Daily Environmental Report: New EDSP test orders requires staggered batches. Open.

Environmental Science & Technology: Comments on how retracted epigenetics paper might affect future studies. Open.

Living on Earth (PRI): Radio request to interview Steve Jones regarding endocrine disruptors. Open.

National Journal: Overview of IRIS. Skip to schedule video interview with Peter Preuss ASAP. Open.

Parents magazine: Interview with Dan Stout re: pesticide residue on kitchen floors scheduled for Wed., Sept. 2 @ 11 a.m. Open.

Solid Waste and Emergency Response

Bloomberg News Service: Updated figures for hydrogen fluoride use in the refining industry? The 1993 study is the latest we have. Closed.

Toxics

Albuquerque Journal: Sent lead news release. Closed.

Chemical Watch: Sent A's to Q's re: new SNURs for carbon nanotubes. Closed.

Cleveland Plain Dealer: Home cleaning products and insecticides/pesticides for the garden. Open.

Daily Environment Report: Tier 1 EDSP test orders. Sent explanation. Closed.

Daily Environment Report: Possible foner next week with Steve Owens about his priorities. Open.

Inside EPA: Reevaluation of TSCA clause on PCB distribution in commerce? We don't have anything more specific than what is in the reg. agenda. Closed.

Inside EPA's Superfund Report: "Opt-out and Recordkeeping Provisions" in the Lead Renovation, Repair and Painting rule. Closed.

Minneapolis Star Tribune: Many questions about PFOA. Open.

Risk Policy Report: Where to find the submission of the renewed ICR to OMB for TSCA section 8(e)? Closed.

Security News Service: What is the EPA standard for chromium levels in whole blood? Referred to ATSDR. Closed.

Yale: Environment: Regulation and testing of endocrine disruptors through the Endocrine Disruptor Screening Program. Sent him links to the website. Closed?

Voluntary Programs

Dow Jones Newswire: Did on-background phone interview with OAR official on solar energy credits for homeowners. Closed.

Freelancer, Jon Bloom: Sent info on livestock methane. Closed.

Highlights in Chemical Science: Sent indoor air quote on certain chemicals. Closed.

Independent Alligator: Green Chill. Open.

Platt's Energy Publications: Sent Green Power info. Closed.

ProSales: Energy Star homes photos. Open.

Reuters (Chicago): Interviewed Maria Vargas on Energy Star buildings. Closed.

Smartmoney.com: Interviewed Maria Vargas August 26 re: rebates for energy efficient products and when to replace appliances. Closed.

Wall Street Journal: Interviewed Virginia Lee of WaterSense and Sam Rashkin of Energy Star August 27 on new homes for each program. Closed.

Water

1H2O.org: Health of harbors in U.S. Open.

60 Minutes: Background request August 25 on sewer overflows. Open.

Allegheny Front (Pittsburgh): Interview request August 26 on airport deicing proposal. Sked for Sept. 2 with Mary Smith. Open.

AP (Wyo.): Is EPA testing anywhere else besides Pavillion, Wyo. for groundwater contamination potentially associated with oil and gas operations? No. Closed.

AP: More on airport deicing. Closed.

Better Homes and Garden: Water shortage and WaterSense. Closed.

BNA: Atrazine. Sent statement. Closed.

BNA, Highlands Today (Fla.): Consent decree on proposing numeric water quality standards for waters in Fla. Sent statement. Closed.

BNA: IRIS evaluation of arsenic. Closed.

BNA: Mary Smith backgrounded reporter on our cooling intake proposal. Closed.

CBS Radio (N.Y.), Chicago Public Radio, Nebraska Public Radio, NPR (St. Louis), Simplesteps.org (NRDC Web site), Washington Post: Atrazine. Sent statement. Closed.

Charleston Gazette: Sent current list of 84 mountaintop mining permit being considered. Closed.

ClimateWire: Will decline interview on carbon capture storage. Will send Brendan-approved statement. Closed.

Environmental Compliance Alert: Airport deicing. Closed.

Floridaenvironments.com: Industry's challenge to EPA's determination that nutrient criteria is needed in Fla. Open.

Freelancer: Wasting water and fast-food restaurants. Ref'd to Alliance for Water Efficiency. Closed.

Globo (Brazilian TV network:) Sent responses on wastewater recycling and reuse. Closed.

Globo (Brazilian TV network): Sent responses on wastewater treatment. Closed.

Greenwire: IG report on water quality nutrient standards. Closed.

Huffington Post: Blog offer August 25 on atrazine. Open.

Inside EPA: Draft blending policy. Open.

Inside EPA: Mercury guidance and water quality standards. Open.

Inside EPA: Organizations at meeting with Pete Silva and maritime officials on 8/24. Closed.

Inside EPA: Sent comments from states and external groups on draft utility guidance. Closed.

Inside EPA: Will EPA require W. Va. to revise its fish tissue standard for methylmercury? No decision made yet. Closed.

Natural Foods Merchandiser: Atrazine. Sent statement. Closed.

NH Union Leader: EPA regulations involving car washes. Closed.

Pesticide and Toxic Chemical News: Sent response on aquatic pesticide prototype permit. Closed.

Platts, The Times-Picayune, Washington Times: Carbon dioxide sequestration. Closed.

ProPublica: Is EPA testing anywhere else besides Pavillion, Wyo. for groundwater contamination potentially associated with oil and gas operations? No. Also sent LPJ testimony on hydraulic fracturing. Closed.

Simplesteps.org (NRDC Web site): When will thorough review of atrazine and other chemicals take place under the new Admin.? Open.

SNL Energy: CWA violation and community pools. Closed.

Today's Facility Manager: Airport deicing proposal. Closed.

Wall Street Journal: More on mountaintop mining: number of mountains that have been mountain mined? Ref'd to Office of Surface Mining. Sent study on downstream effects of mountaintop mining. Closed.

Washington City Paper: Sent responses on swimming pool disinfectants. Closed.

Washington Times: More carbon dioxide sequestration. Closed.

To: Ganesan.Arvin@epamail.epa.gov;Oster.Seth@epamail.epa.gov;"Lisa P. Jackson" [Windsor.Richard@epamail.epa.gov]; ster.Seth@epamail.epa.gov;"Lisa P. Jackson" [Windsor.Richard@epamail.epa.gov]; Lisa P. Jackson" [Windsor.Richard@epamail.epa.gov]; Diane Thompson" [Thompson.Diane@epamail.epa.gov]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Sat 8/29/2009 2:58:54 PM
Subject: Fw: For 1pm Call.....Revised Paper - Follow-up from LPJ briefing
Mining ECP Recommendation.doc
Mining ECP Recommendationv2.doc

Lisa. Here is a draft staff paper following up on the MTM briefing. I've provided some comments and more changes will be made but it provides a strong start on our messaging. Could you see whether you're comfortable with the approach? I think we will need to brief CEQ, the Corps and probably Congress before we pull the trigger and a few more days would definitely help to get ready. It would be nice not to

Deliberative

----- Original Message -----

From: Ann Campbell

Sent: 08/28/2009 02:24 PM EDT

To: Suzanne Schwartz; Gregory Peck; Steven Neugeboren; Bob Sussman; Peter Silva; Mike Shapiro; Kevin Minoli; Karyn Wendelowski; David Evans

Subject: Fw: For 1pm Call.....Revised Paper - Follow-up from LPJ briefing

Thanks all for the call today. Glad to see that the discussion paper provided was on point. Nevertheless, attached below is a revised version calling attention to a few key points as discussed on the call.

As Suzanne suggested, please provide any comments you may have no later than noon Monday. Thank you. Ann

From: David Evans/DC/USEPA/US

To: Suzanne Schwartz/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Steven Neugeboren/DC/USEPA/US@EPA

Cc: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike

Shapiro/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA, Karyn Wendelowski/DC/USEPA/US@EPA

Date: 08/28/2009 12:55 PM

Subject: For 1pm Call.....Revised Paper - Follow-up from LPJ briefing

Suzanne/Greg/Steve, with copies to others who may participate in 1pm Mining call with RAs,

Here is the paper we just discussed with you, Suzanne, with we have shared with Regions, and expect they will have shared with their RAs for discussion during the 1pm Mining call.

It is the result of post-briefing meeting among WD staff yesterday afternoon/evening, which was followed by conference call with Regions early this morning.

Look forward to discussions in a few minutes.

Dave

David Evans, Director
Wetlands Division
Office of Wetlands, Oceans and Watersheds
(202) 566-0535

----- Forwarded by David Evans/DC/USEPA/US on 08/28/2009 12:50 PM -----

From: Ann Campbell/DC/USEPA/US
To: Brian Frazer/DC/USEPA/US, Brian Topping/DC/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US, David Evans/DC/USEPA/US, Jeffrey Lapp/R3/USEPA/US@EPA, Jim Giattina/R4/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA, John Pomponio/R3/USEPA/US@EPA, Kevin Pierard/R5/USEPA/US@EPA, landers.timothy@epa.gov, Samantha Beers/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Tinka Hyde/R5/USEPA/US@EPA, Tom Welborn/R4/USEPA/US@EPA, Philip Mancusi-Ungaro/R4/USEPA/US@EPA, Jennifer Derby/R4/USEPA/US@EPA
Date: 08/28/2009 11:07 AM
Subject: Revised Paper - Follow-up from LPJ briefing

Folks - based on our conversation this morning, here are the revisions i made to the paper. note I did not alter the recommendation but i did add a section regarding the effect of the recommendation which refers to our discussion today. please let me know if you have drop dead issues with the recommendation. wording and messaging should continue to be tweaked but we must have a clear unified recommendation.

Thanks.

For folks on blackberry or other portable devices:

Deliberative

Effect of Recommendation: EPA continues to evaluate and work with the Corps Districts to achieve environmental improvements.

The findings of the Regional review do not mean that these permits may not be authorized. The recommendation provides EPA and the Corps the additional time to work together to achieve improvements in environmental protection. Our experience in these last many months has shown that significant improvements are possible through collaboration. In some instances the Regions and Districts have already begun discussions on the proposals to identify the stage of evaluation an individual proposal is in. Based on these discussions with the Corps Districts, the Regions have come to understand that many proposals simply may not be at the stage of evaluation where they are ready for authorization. However, based on these discussions, the Regions also believe that resolution may be achieved, for a few, quickly and thereby potentially reducing the final number of permits on the list on September 22.

USEPA

Office of Wetlands, Oceans and Watersheds

1200 Pennsylvania Avenue

Room 7318C (MC4502T)

Washington, DC 20460

202-566-1370

Personal Privacy (Mobile)

202-566-1349 (Fax)

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 9/11/2009 12:20:11 AM
Subject: Re: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

Why don't you reach out to the BIA? He was picked specifically by Salazar and may be helpful. Our

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 09/10/2009 07:24 PM EDT
To: Richard Windsor
Cc: Diane Thompson
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

Lisa -- I had a long talk with Mathy about this

Deliberative

Deliberative

Thoughts?

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 09/10/2009 07:18 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Robert Polin/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lisa
Heinzerling/DC/USEPA/US@EPA
Date: 09/10/2009 07:06 PM
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

Lisa:

This is follow-up to my last e-mail regarding the proposed listing of the Red Devil Site on the NPL. Attached is further background information, talking points and proposed options for you to use to call Secretary Salazar. Please let me know if you have questions. Thanks
[attachment "Administrator Call to DOI on Red Devil Mine Site.doc" deleted by Richard Windsor/DC/USEPA/US]
[attachment "Administrator Call - Red Devil NPL Timeline.doc" deleted by Richard Windsor/DC/USEPA/US]

Bob Polin: Please include this in the Administrator's day book.

Mathy .

----- Forwarded by Mathy Stanislaus/DC/USEPA/US on 09/10/2009 06:50 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA
Date: 08/26/2009 02:59 PM
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

EPA has put forward a package of proposed and final Superfund/CERCLA National Priorities List (NPL) sites for interagency review by the Office of Management and Budget (OMB). OMB has approved recently a group of proposed and final NPL sites. However, OMB and the Bureau of Land Management (BLM) within the Department of the Interior continue to oppose the proposed listing of Red Devil Mine on the NPL as a federal facility. We understand that Bob Abby, BLM Director and Sally Erickson at OMB are being apprised of this issue.

Red Devil Mine is a former mercury mine (operated intermittently from 1933 – 1971) located in a remote part of western Alaska, on the south side of the Kuskokwim River. It contains tailings piles, saturated tailings in the adjacent Red Devil Creek, areas of contaminated surface soils, and a surface impoundment. These sources have impacted Red Devil Creek and the Kuskokwim River with elevated levels of mercury, arsenic and other heavy metals. The mine is entirely on BLM property. No private leases were ever awarded. There is a human health risk based on fish caught for human consumption in the Kuskokwim River. Mercury has been found in fish tissue and 23 native Alaskan tribes are subsistence fishers of the Kuskokwim. The State of Alaska Department of Environmental Quality, after working for years with BLM, has asked EPA to pursue listing. BLM, due to lack of funds, has been ineffective in dealing with the site, performing a series of removals which have made the situation worse and left the mercury contamination unaddressed.

EPA has determined that the site has sufficient hazard to warrant placement on the NPL; the state's environmental commissioner supports the NPL listing; there are ongoing releases and risk of ongoing human exposure through mercury contaminated fish; BLM is not effectively addressing the site; there is community and tribal support for the action and the potential for adverse public reaction if we do not move forward with the proposed listing.

Deliberative

[attachment "NPL Red Devil Accept Changes 26 Aug 2009.doc" deleted by Mathy Stanislaus/DC/USEPA/US]
Barnes Johnson | U.S. Environmental Protection Agency | Superfund | Tel 703 603 8960 | Fax 703 603 9146 |
johnson.barnes@epa.gov

To: CN=Mathy Stanislaus/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Robert Polin/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Bob
Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Lisa
Heinzerling/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 9/11/2009 12:20:35 AM
Subject: Re: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

I'm having my office reach out BIA first. Tx.

----- Original Message -----

From: Mathy Stanislaus
Sent: 09/10/2009 07:06 PM EDT
To: Richard Windsor
Cc: Robert Polin; Bob Sussman; Lisa Heinzerling
Subject: Fw: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

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Deliberative

[attachment "NPL Red Devil Accept Changes 26 Aug 2009.doc" deleted by Mathy Stanislaus/DC/USEPA/US]
Barnes Johnson | U.S. Environmental Protection Agency | Superfund | Tel 703 603 8960 | Fax 703 603 9146 |
johnson.barnes@epa.gov

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 9/11/2009 1:40:00 AM
Subject: Re: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

Far from it. Yes!

----- Original Message -----

From: Bob Sussman
Sent: 09/10/2009 09:37 PM EDT
To: Richard Windsor
Subject: Re: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

Deliberative

----- Original Message -----

From: Richard Windsor
Sent: 09/10/2009 08:20 PM EDT
To: Bob Sussman
Subject: Re: Red Devil Mine - Interagency Opposition to Superfund NPL Listing

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Deliberative

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Deliberative

Deliberative

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Senior Policy Counsel to the Administrator
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US Environmental Protection Agency

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Deliberative

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[attachment "NPL Red Devil Accept Changes 26 Aug 2009.doc" deleted by Mathy Stanislaus/DC/USEPA/US]
Barnes Johnson | U.S. Environmental Protection Agency | Superfund | Tel 703 603 8960 | Fax 703 603 9146 |
johnson.barnes@epa.gov

To: CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;Bob Persciaseppe;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Michelle DePass/OU=DC/O=USEPA/C=US@EPA[]; ob Persciaseppe;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Michelle DePass/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Michelle DePass/OU=DC/O=USEPA/C=US@EPA[]; N=Michelle DePass/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 9/14/2009 6:09:56 PM
Subject: Fw: Garcia Resume
[garcia resume 2009.9-12-09.wpd](#)
[share your photos.](#)

for EJ position. Thoughts?

----- Forwarded by Richard Windsor/DC/USEPA/US on 09/14/2009 02:08 PM -----

From: Mathy Stanislaus/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, "Michelle DePass" <DePass.Michelle@epamail.epa.gov>
Date: 09/14/2009 06:34 AM
Subject: Fw: Garcia Resume

From: lisa garcia [Personal Privacy]
Sent: 09/14/2009 04:52 AM GMT
To: Mathy Stanislaus
Subject: Garcia Resume

Mathy:

Per your request, attached please find my resume. Please let me know if you need anything else.

Thank you, Lisa Garcia.

With Windows Live, you can organize, edit, and share your photos.

To: "Diane Thompson" [thompson.diane@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Fri 9/25/2009 4:59:15 PM
Subject: Fw: FAR CCR Rule, Inside EPA Article

Deliberative

----- Original Message -----

From: Mathy Stanislaus
Sent: 09/25/2009 12:10 PM EDT
To: Richard Windsor
Cc: Lisa Heinzerling; "Sussman, Bob" <sussman.bob@epa.gov>; Diane Thompson
Subject: FAR CCR Rule, Inside EPA Article
Here is where we are in FAR:

CCR Proposed Rule: Results of Final Agency Review Meeting (FAR) and Next Steps

Deliberative

Deliberative

Deliberative

Deliberative

The headline is terrible - overall the article is not horrible. Matt - states he was misquoted regarding the the headline,

EPA LAWYERS STYMIE STATE, INDUSTRY BID FOR 'SOLID' WASTE COAL ASH RULES (Inside EPA)
9/25/2009

WHITEFISH, MT -- EPA lawyers have determined that solid waste rules for coal ash would be unenforceable at the federal level and create major permitting uncertainty, a key EPA official says, bolstering activists' long-running assertion that the agency's pending first-time waste rules for coal ash should regulate it more stringently as a hazardous waste.

At the Environmental Council of the States' (ECOS) annual meeting here Sept. 22, Matt Hale, director of the Office of Resource Conservation & Recovery, said the agency would be legally barred from using the existing Resource Conservation & Recovery Act (RCRA) subtitle D process to develop a solid waste program for coal combustion waste. States and industry generally would prefer that EPA's proposed rules -- due by December -- regulate coal ash as a solid waste.

Hale said that while he believes subtitle D solid waste rules would be sufficiently protective of safety and the environment, EPA would have no authority under federal law to enforce such requirements.

In a presentation at the meeting Hale said that solid waste rules could be modeled on the existing subtitle D regulations for municipal solid waste, under which states issue permits and inspect solid waste landfills. But while this approach would be protective, "unfortunately our lawyers are telling us that under the statute we don't have the authority to write a subtitle D program that looks like the national solid waste program," he added.

Hale said that any agency attempt to regulate coal waste under subtitle D other than including it in the municipal solid waste program would be fraught with problems in enforceability and permitting. And the municipal waste program is designed to handle household garbage, not coal waste from power plants, meaning it would be unlikely for EPA to simply include coal waste in the existing municipal waste program.

In contrast, if EPA develops more stringent hazardous waste rules for coal ash under subtitle C, states would be obliged to apply for federally enforceable permits from EPA. The agency would inspect the landfills, which activists say is vital to ensure a nationally consistent level of protection at coal ash disposal sites. EPA is slated to send its proposed RCRA rules for coal waste to the White House for review in the coming weeks.

One environmentalist says Hale's comments support their claims that subtitle D rules would fail to address contamination from coal ash sites because it would leave inspection and permitting to states, which could result in inconsistent approaches to regulating coal ash, and make it impossible for EPA to enforce the rules.

But one electric utility source says Hale's comments echo industry's claims that subtitle D rules would be sufficiently protective to manage coal ash as a solid waste. The source adds that RCRA allows the agency to take emergency actions against any subtitle D site if it poses an "imminent and substantial endangerment" (ISE) to the environment or population, which could serve as a mechanism to enforce such regulations.

However, an attorney who works on RCRA issues rejects the industry argument, countering that the enforcement clause is used to force offenders into court but is not a regulatory enforcement tool like the authority EPA would have under subtitle C to override states and enforce hazardous waste rules. "[The ISE clause] allows EPA to issue orders or go to court . . . but it's not a regulatory thing," the source says. "It's like night and day," the attorney says. The environmentalist agrees and says the ISE clause is for emergencies whereas subtitle C enforcement authority is designed to prevent such emergencies from occurring. RCRA is "meant to be a preventative statute. You don't

want inspections only to be done when EPA has reason to believe there's a threat of ISE," the source says. Agency ISE actions are also taken very sparingly, the source says, and given the extent of the potential problem posed by coal waste pollution nationwide, it would be a poor substitute for national subtitle C regulations. "I don't think [EPA has] ever brought an action for coal ash contamination and they have probably brought actions very few times for solid waste problems entirely," the source says. "It is just not a workable suggestion."

Hale has previously floated the idea of a "hybrid" approach to coal waste rules that would regulate it as a RCRA subtitle D solid waste with less stringent guidelines, but if those guidelines are not followed then stricter subtitle C hazardous waste rules would apply. However, activists and industry strongly criticized that idea as legally dubious, difficult to implement and hard to enforce (Inside EPA, May 15).

Environmentalists who support hazardous waste rules for coal waste say that the agency could craft subtitle C rules that may be more similar to the level of control expected from a subtitle D regulation, but with the added benefit of having the enforcement mechanism available to EPA under the hazardous waste designation. Under subtitle D, landfills that handle municipal solid waste -- household garbage -- are subject to provisions to protect groundwater, air and surrounding communities, including liners to prevent leaching, location restrictions, closure and post-closure requirements, financial assurance rules and operating guidelines. RCRA lets states choose to follow EPA's guidelines or "equivalent state guidelines," according to the agency's Web site. Subtitle C requires hazardous waste landfills to install a "double liner; double leachate collection and removal systems; leak detection system; run on, runoff, and wind dispersal controls; [and a] construction quality assurance program" -- provisions that are considerably more expensive to industry than a solid waste landfill would be. Coal waste is exempted from subtitle C under the 1980 so-called Bevill exclusion to RCRA, which exempts "solid waste from the extraction, beneficiation, and processing of ores and minerals" from subtitle C designation pending a determination by the EPA administrator on the properties of each. The substances that were subject to the Bevill exclusion -- including coal combustion waste, coal slurry, cement kiln dust, and others -- can be afforded a certain flexibility in their disposal requirements, sources say, if EPA chooses to issue such parameters.

The environmentalist says that the agency can tailor its rules to a particular waste, and therefore requirements under subtitle C for a coal ash landfill might resemble subtitle D provisions for a solid waste landfill in practice, save for the inspection and permitting authority granted the agency under the hazardous waste provision of RCRA. "EPA can develop a scheme under subtitle C that looks a lot like subtitle D, but has federal enforcement ability and requires consistent rules nationwide," the source says. Nevertheless, the source adds, "I think [activists and industry] are pretty close in what we believe is necessary for engineering a safe landfill."

Industry and state officials continue to resist regulation of coal waste as hazardous, with the industry source warning it could make it impossible for utilities to sell the ash for beneficial reuse -- for example as a component in cement and landscaping fill -- because of the stigma of a hazardous waste designation.

"There are some state regulations that prohibit the beneficial reuse of materials that otherwise would be considered a hazardous waste," the source says. "And there are alternatives to choose from. The stigma is real, and those state regulations on beneficial reuse are real. Adverse impacts are what you'll be getting with subtitle C" designation, the source says, adding that it would increase overall levels of waste nationwide.

State officials are also mounting resistance to a subtitle C listing, with Peggy Harris, president of the Association of State & Territorial Solid Waste Management Officials (ASTSWMO), telling members at the ECOS meeting that hazardous waste rules could cost states millions of dollars due to increased personnel necessary to manage the landfills. She also said 96 percent of states surveyed by ASTSWMO do not have enough landfill capacity for handling coal combustion waste if it were classified as hazardous waste, and 86 percent of states surveyed were already issuing permits for the disposal of coal combustion waste.

The industry source says Harris' statistics point to another problem with managing coal waste as hazardous, which is that the states -- who would have to do the majority of enforcement of the rules -- would be faced with the added financial burden to meet that duty, making the regulation effectively an unfunded mandate.

But the environmentalist says EPA can be flexible in its landfill requirements for coal waste so the capacity for disposal is likely considerably larger than ASTSWMO's figures suggest. -- John Heltman & Jonathan Strong

Tisha Petteway
Press Officer

US EPA: Office of Public Affairs
1200 Pennsylvania Ave. NW
Washington, DC 20460
Office (202) 564-3191

To: "Sarah Dale" [dale.sarah@epa.gov]
Cc: "Michael Moats" [moats.michael@epa.gov]; Eric Wachter" [wachter.eric@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 9/28/2009 12:30:45 AM
Subject: Fw: ACTION Commonwealth Club draft (Sunday)
Commonwealth Club (8).doc

Hey Sara,

Can you print this for me so I can mark it up (slightly)?

Thx, Lj

From: michael moats [Personal Privacy]
Sent: 09/27/2009 12:49 PM AST
To: Richard Windsor; Seth Oster; Michael Moats; Bob Sussman
Subject: ACTION Commonwealth Club draft (Sunday)

Administrator, here is the latest version of the CWC speech. Hoping this gets to you in time to look over on the plane.

One note is that this is long. We're covering a lot of ground, and it probably runs to about 35 minutes of speaking. The bulk of that is story telling in the sections about your own experience. These are items you're familiar with, and will be engaging for the audience, so it's not 35 minutes of wonky policy stuff. Also, I think 35 minutes is fine at this venue. The "Death of Environmentalism" speech referenced in the opening ran 59 minutes.

Seth and Bob, I made the updates Steve suggested. In followup to the question on the 80,000 number -- can she cite, in the speech, the confusion we've run into in finding a hard number as part of the reason for reform? Happy to work up a quick sentence or two on that.

Thanks and have a good trip.

Mike

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA[]; N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA[]

From: CN=Richard Windsor/OU=DC/O=USEPA/C=US

Sent: Wed 10/7/2009 4:51:25 PM

Subject: Re: Judge Tatel on Agency rulemaking

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Not as ominous as was decribed.

----- Original Message -----

From: Scott Fulton

Sent: 10/07/2009 12:48 PM EDT

To: Richard Windsor; Diane Thompson; Bob Perciasepe; Bob Sussman; Lisa Heinzerling

Subject: Fw: Judge Tatel on Agency rulemaking

This must be the speech to which Cass was referring.

----- Forwarded by Scott Fulton/DC/USEPA/US on 10/07/2009 12:46 PM -----

From: Mary-Kay Lynch/DC/USEPA/US
To: Scott Fulton/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA
Date: 10/07/2009 12:38 PM
Subject: Judge Tatel on Agency rulemaking

Daily Environment Report: All Issues > 2009 > October > 10/07/2009 > News > Regulatory Policy: Appeals Court
Judge Tatel Urges Regulation Based on Law First, Policy Goals Second

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Appeals Court Judge Tatel Urges Regulation

Based on Law First, Policy Goals Second

Federal appeals court Judge David S. Tatel, in a rare public speaking engagement, said Oct. 6 that regulatory agencies too often seem to choose policy goals without adequate regard for the law, and he offered examples from several recent decisions overturning Environmental Protection Agency regulations.

Tatel sits on the U.S. Court of Appeals for the District of Columbia Circuit, which hears appeals of EPA regulatory decisions. Nominated to serve on the court in 1994 by President Bill Clinton, he has in recent years participated in the invalidation of some prominent Bush administration environmental regulations. But his remarks carried a cautionary note for the Obama administration as he addressed an Environmental Law Institute symposium.

"It's at times like these, when a new administration is determined to change the environmental policy, that our commitment to the fundamental principles of administrative law is really tested," Tatel told the audience.

"It is basic administrative law that maintains the vital connection between democratic governance and the regulatory state," he said.

In the vast majority of cases, regulatory agencies do a commendable job of addressing complex environmental issues, the judge said.

"That said, in both Republican and Democratic administrations, I have too often seen agencies failing to display the kind of careful and lawyerly attention one would expect from those required to obey federal statutes and to follow principles of administrative law," Tatel said. "In such cases, it looks for all the world like agencies choose their policy first, then later seek to defend its legality."

He then emphatically added: "That gets it entirely backwards."

Massachusetts v. EPA

Tatel filed an important dissent from a D.C. Circuit ruling that accepted EPA's decision during the Bush administration that the agency would not regulate greenhouse gases. The importance of that dissent became clear when the Supreme Court, in 2007, overturned the appeals court and told EPA it must make a finding on whether greenhouse gases endanger public health or welfare (Massachusetts v. EPA 549 U.S. 497, 63 ERC 2057 (2007); 63 DEN A-3, 4/3/07).

"No case has done more to accelerate serious policy decision-making on global warming both in the executive and the legislative branches," Leslie Carothers, Environmental Law Institute president, told the symposium.

The case also served as one of several from the Bush administration that Tatel held up as examples of seeming to put policy ahead of the requirements of the law.

EPA, seeking to avoid regulating carbon emissions, offered a host of policy reasons, including its own uncertainty regarding causes of global warming, Tatel said. But the Clean Air Act requires regulation of emissions if they endanger human health or welfare, and that required an EPA decision on whether greenhouse gases posed such a danger, he said.

"I couldn't tell whether EPA was claiming that its uncertainty prevented it from making an endangerment finding, or whether that uncertainty relieved it of the obligation to regulate even if it had made a finding, or both," Tatel

said.

EPA under the Obama administration has now proposed that greenhouse gases do pose a danger, although it has not issued a final decision on the finding.

Among the other cases Tatel cited was a D.C. Circuit decision in 2006 that found EPA erroneously interpreted the Clean Water Act by approving seasonal and annual total maximum daily loads for water pollution, rather than daily limits, as specified in the Clean Water Act (*Friends of the Earth Inc. v. EPA*, 62 ERC 1161 (D.C. Cir. 2006); 80 DEN A-1, 4/26/06).

Tatel also referred to a 2004 case in which Nevada successfully challenged EPA's original, 10,000-year radiation standards for a proposed radioactive waste repository at Yucca Mountain in Nevada. The D.C. Circuit said the agency did not follow recommendations for covering peak radiation doses from the facility, which could occur several hundred thousand years into the future (*Nuclear Energy Institute Inc. v. EPA*, 373 F.3d 1251 (D.C. Cir. 2004); 132 DEN A-1, 7/12/04).

'And Give Sound Explanations.'

Tatel stressed the need for agencies to do a clear job of providing reasons for their actions. The principles of administrative law boil down to two rules, he said: "Follow the law, and give sound explanations for what you do." It is the explanations that allow judges to avoid substituting their own judgment for agency expertise, in keeping with the two-decades-old legal precedent of *Chevron v. NRDC* for giving deference to federal agencies, he said. "The reason-giving requirement allows courts to determine whether agencies have, in fact, acted on the basis of that expertise," he said.

"This rule applies with particular force when agencies change existing policy, as happens quite often during times of transition," Tatel said. "Obviously, agencies have authority to move from one permissible position to another, but when doing so, they must adequately explain why."

He expressed his hope that EPA would make a policy of involving lawyers early enough in regulatory planning to avoid developing plans that set policy before the law.

By Alan Kovski

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To: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]; N=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Sun 10/25/2009 7:22:05 PM
Subject: Fw: Summary of Meeting with WVDEP
WV Meeting Summary10-15-09.doc

If you have time, you may want to peruse the notes of Bill's meeting with WVa. It makes interesting reading. I was told in advance that the main subject of the meeting was the NPDES withdrawal petition

Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 10/25/2009 03:18 PM -----

From: Bob Sussman/DC/USEPA/US
To: William Early/R3/USEPA/US
Cc: capacasa.jon@epa.gov, Cindy Cook/R3/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Jim Newsom/R3/USEPA/US, Linda Boornazian/DC/USEPA/US@EPA, pomponio.john@epa.gov, Samantha Beers/R3/USEPA/US@EPA, Sussman.Bob@epa.gov, Georgia Bednar/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Catherine McCabe/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Date: 10/25/2009 03:18 PM
Subject: Re: Summary of Meeting with WVDEP

Bill -- it looks like the next key milestone in addressing the NPDES petition is the call with WVa on Nov. 10 to categorize the issue list. We should schedule a briefing shortly after that call to discuss where we are and where we go next. I'll be particularly interested in whether we get a written response to the petition from the state and what EPA would like to see in the management agreement we will jointly draft with DEP later this year and into 2010.

I want to make sure you are closely coordinating with OECA on the enforcement issues raised by the petition and that OW is working very closely with the region. We need to make sure we have an arms-length process with WVa and that we rigorously evaluate all the issues in the petition.

Georgia, please get a briefing on the calendar.
Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: William Early/R3/USEPA/US
To: Sussman.Bob@epa.gov, Gregory Peck/DC/USEPA/US@EPA, Linda

Boornazian/DC/USEPA/US@EPA

Cc: Jim Newsom, capacasa.jon@epa.gov, pomponio.john@epa.gov, Samantha Beers, Cindy

Cook/R3/USEPA/US@EPA

Date: 10/22/2009 03:36 PM

Subject: Summary of Meeting with WVDEP

Bob,

As requested, attached are notes summarizing last week's meeting with WVDEP. Sorry for the delay getting these to you.

Thanks.

bill e.

William C. Early
Acting Regional Administrator
Middle Atlantic Region
U. S. Environmental Protection Agency
215 814 2626
215 814 2901 (Fax)
Early.William@epa.gov

To: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Cameron Davis/OU=R5/O=USEPA/C=US@EPA;CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA;CN=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Cynthia Giles-AA/OU=DC/O=USEPA/C=US@EPA;CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA;Jill Davis [jill.davis@pacesinc.com]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Cameron Davis/OU=R5/O=USEPA/C=US@EPA;CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA;CN=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Cynthia Giles-AA/OU=DC/O=USEPA/C=US@EPA;CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA;Jill Davis [jill.davis@pacesinc.com]; N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Cameron Davis/OU=R5/O=USEPA/C=US@EPA;CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA;CN=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Cynthia Giles-AA/OU=DC/O=USEPA/C=US@EPA;CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA;Jill Davis [jill.davis@pacesinc.com]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Cameron Davis/OU=R5/O=USEPA/C=US@EPA;CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA;CN=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Cynthia Giles-AA/OU=DC/O=USEPA/C=US@EPA;CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA;Jill Davis [jill.davis@pacesinc.com]; N=Cameron Davis/OU=R5/O=USEPA/C=US@EPA;CN=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA;CN=Craig Hooks/OU=DC/O=USEPA/C=US@EPA;CN=Cynthia Giles-AA/OU=DC/O=USEPA/C=US@EPA;CN=David McIntosh/OU=DC/O=USEPA/C=US@EPA;CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA;CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA;CN=Gina McCarthy/OU=DC/O=USEPA/C=US@EPA;Jill Davis [jill.davis@pacesinc.com]; N=Heidi Ellis/OU=DC/O=USEPA/C=US@EPA;CN=Chuck

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 N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Seth
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 N=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Steve
 Owens/OU=DC/O=USEPA/C=US@EPA[]; N=Steve Owens/OU=DC/O=USEPA/C=US@EPA[]

Cc: []

From: CN=Bob Perciasepe/OU=DC/O=USEPA/C=US

Sent: Thur 10/29/2009 5:16:00 PM

Subject: Retreat Backgraound

[EPA Retreat October 2009.ppt](#)

[Narrative Responses to Open Ended Questions in PreSurvey1.doc](#)

Deliberative

Hi Everyone:

The Retreat is tomorrow and I wanted to make sure you received several items in advance (just in time actually) and I trust you will find some time this evening to take a look. You should have the book by now as well. Here is what is included with this note:

-- The power-point that Jill Davis our facilitator, will use to guide us through the meeting. It is of particular note because it has some observations on the survey results, and some straw concepts for us to work from in several of the sessions. It also lays out 8 thematic priorities that the Administrator will be asking us to work with and build our actions around.

-- The full summary of the comments from the survey - unedited.

-- A link below that will let you see the statistical profile of those questions that can be arrayed graphically.

Deliberative

We will have these materials at the retreat, but it will be helpful for you to review them before hand....
you might even be able to work on them in your car pools (not the driver) !!

Bob P.

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 11/4/2009 2:08:37 AM
Subject: Re: Revised Responses to Bob Sussman's Questions on AEP

Tx Bob.

----- Original Message -----

From: Bob Sussman

Sent: 11/03/2009 07:26 PM EST

To: Richard Windsor; Bob Perciasepe; Arvin Ganesan; Diane Thompson; David McIntosh; Seth Oster

Cc: Mathy Stanislaus; Cynthia Giles-AA

Subject: Fw: Revised Responses to Bob Sussman's Questions on AEP

Here is an update from OSWER on recent developments regarding the AEP WVa coal ash impoundment situation.

In brief, the company has agreed to conduct three tests proposed by EPA. However, it feels that liquefaction is not an issue based on the analysis conducted for the company by Ohio State. (This report was not provided to EPA when the impoundment was first assessed and was only obtained yesterday). EPA's contractor will be reviewing the OSU report and providing its evaluation to EPA on November 9. EPA is also asking another contractor to provide a peer review, which will be done a week later. Any decision to require liquefaction testing will be based on these two reports -- and thus is at least two weeks off.

To assist in evaluating the OSU study, the company will be providing EPA with data on the coal ash types found in its impoundments.

I've suggested that OECA immediately issue an information request under the CWA requiring the company to conduct the three studies it has agreed to conduct and submit the data it has promised on coal ash composition.

Meanwhile, there continues to be uncertainty on when we will finalize the draft report and submit it to Boxer. I've conveyed to OSWER that this needs to be done asap.

Please advise if there are additional actions we should be taking.

Robert M. Sussman

Senior Policy Counsel to the Administrator

Office of the Administrator

US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 11/03/2009 06:57 PM -----

From: Mathy Stanislaus/DC/USEPA/US

To: "Bob Sussman" <Sussman.Bob@epamail.epa.gov>

Date: 11/03/2009 05:58 PM

Subject: Fw: Revised Responses to Bob Sussman's Questions on AEP

Here it is

----- Original Message -----

From: Matt Straus

Sent: 11/03/2009 05:08 PM EST

To: Mathy Stanislaus; breen.barry@epa.gov

Cc: Antoinette Powell-Dickson; Ellyn Fine; Matt Hale; Randy Deitz

Subject: Fw: Revised Responses to Bob Sussman's Questions on AEP

Mathy, I know that this was sent to you independently, but wanted to make sure you saw this so you can forward to Bob Sussman.

Deliberative

----- Forwarded by Matt Straus/DC/USEPA/US on 11/03/2009 04:58 PM -----

From: Betsy Devlin/DC/USEPA/US

To: Matt Hale/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Barry Breen/DC/USEPA/US@EPA, Antoinette Powell-Dickson/DC/USEPA/US@EPA, Ellyn Fine/DC/USEPA/US@EPA, Lana Suarez/DC/USEPA/US@EPA, Kelly Greene/DC/USEPA/US@EPA, Maria Vickers/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Robert Dellinger/DC/USEPA/US@EPA

Cc: Richard Kinch/DC/USEPA/US@EPA, Stephen Hoffman/DC/USEPA/US@EPA, James Kohler/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA, Carolyn Levine/DC/USEPA/US@EPA, Carol Amend/R3/USEPA/US@EPA, Rick Rogers/R3/USEPA/US@EPA, Cari Shiffman/DC/USEPA/US@EPA, Kenneth Schefski/DC/USEPA/US@EPA, Pete Raack/DC/USEPA/US@EPA

Date: 11/03/2009 04:54 PM

Subject: Revised Responses to Bob Sussman's Questions on AEP

These incorporate comments from Matt Hale and Matt Straus

[attachment "AEPbobsussmanquestions.doc" deleted by Richard Windsor/DC/USEPA/US]

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Sun 11/8/2009 5:15:48 PM
Subject: Re: CERCLA Section 108(b) notice

Deliberative

----- Original Message -----

From: Bob Sussman
Sent: 11/08/2009 11:59 AM EST
To: Richard Windsor
Cc: Bob Perciasepe; Lisa Heinzerling
Subject: CERCLA Section 108(b) notice

I met with the OSWER staff to discuss the upcoming CERCLA 108(b) notice identifying industry sectors for which EPA may develop financial responsibility requirements. I'm inclined to give it the green light but have reservations in one area.

As you remember, this is an Advance Notice of Proposed Rulemaking (ANPR) ; it doesn't commit EPA to anything and provides an opportunity for comment by those who feel we erred in including (or not including) particular sectors. Rulemaking to impose financial assurance requirements is far in the future so, while the identified sectors may grouse, the ANPR will have no immediate impacts.

Deliberative

Deliberative

Let me know if you'd like to explore this further.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[];
N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA[];
N=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Perciasepe/OU=DC/O=USEPA/C=US@EPA[]; N=Bob
Perciasepe/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 11/9/2009 6:51:24 PM
Subject: Re: *ASAP*DECISION: Please approve statement
[Read the EPA directive to remove the video](#)
[Watch the censored video](#)
[Examine the video script](#)
[See their Washington Post op-ed](#)
[View Williams and Zabel's more detailed critique of cap & trade](#)
[Look at EPA's semi-transparency under Obama](#)
[Compare the Fish & Wildlife Service right to publish](#)

Fine with me if fine with you all.

----- Original Message -----

From: Adora Andy

Sent: 11/09/2009 01:09 PM EST

To: Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe

Cc: Allyn Brooks-LaSure

Subject: *ASAP*DECISION: Please approve statement

The following is a proposed, DRAFT, on the record statement in response to media inquiries on the PEER release below:

STATEMENT:

Deliberative

EPA ORDERS EMPLOYEES TO REMOVE YOUTUBE CLIMATE VIDEO

Agency Threatens Discipline for Off-Duty Warnings on Cap & Trade Failures

Washington, DC — The U.S. Environmental Protection Agency has ordered two of its attorneys to remove a video they posted on YouTube about problems with climate change legislation backed by the Obama administration or face “disciplinary action”, according to documents released today by Public Employees for Environmental Responsibility (PEER). The couple had received clearance for posting the video but EPA took issue with its content following publication of an op-ed piece by the two in The Washington Post on October 31.

The video, entitled “The Huge Mistake,” is by Laurie Williams and Allan Zabel, two EPA enforcement attorneys speaking as private citizens. The video explains why the cap & trade plan endorsed by President

Obama will not accomplish its goals, let alone effectively curb climate change. On November 5, 2009, EPA ethics officials ordered the two veteran employees to –

“Remove your climate change video from You Tube by the close of business on Friday, November 6, 2009”;

“Edit your You Tube video...by:

(i) Removing the language starting at 1:06 min – ‘Our opinions are based on more than 20 years each working as attorneys at the U.S. Environmental Protection Agency in the San Francisco Regional Office.’

(ii) Removing the images of EPA’s building starting at 1:06 min...

(v) Remove [sic] the language starting at 6:30 min – ‘In my work at EPA, I’ve been overseeing California’s cap-and-trade and offset programs for more than 20 years.’”

“All future requests for approval of an outside writing activity must be accompanied by a draft of the document that is the subject of the approval request...”

“EPA is abusing ethics rules to gag two conscientious employees who have every right to speak out as citizens,” stated PEER Executive Director Jeff Ruch, who has re-posted the original video and its script. “EPA reversed itself because someone in headquarters had a tantrum about their Washington Post essay.”

Williams and Zabel, who are married to each other, go to great lengths in the video and other writings to provide disclaimers affirming that their views are personal and do not represent the agency. However, EPA now objects to them even referring to their on-the-job experience as the basis for their views.

“How is government supposed to be transparent when public servants are forbidden from discussing the nature of their work?” asked Ruch. “EPA and every other federal agency should have simple, clear guidelines so that government workers can express themselves freely without political prior restraints.”

In August, EPA Administrator Jackson issued an all-employee statement saying the agency will operate as if in a “fishbowl” but left ambiguous whether and how employees may publish papers or communicate with Congress and the media. By contrast, a few agencies such as the U.S. Fish & Wildlife Service have dispensed with any pre-approval of employees’ unofficial expressions, as long as they are accompanied by a short disclaimer.

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Cc: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]
Sent: Mon 11/9/2009 7:34:09 PM
Subject: Re: PLEASE READ: *ASAP*DECISION: Please approve statement
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Cool.

----- Original Message -----

From: Adora Andy

Sent: 11/09/2009 02:21 PM EST

To: Bob Perciasepe; Scott Fulton; Seth Oster; Richard Windsor

Cc: Allyn Brooks-LaSure

Subject: PLEASE READ: *ASAP*DECISION: Please approve statement

Here is our on the record statement attributable to Scott Fulton - please respond in the next 10 minutes if you have objections.

Thanks,

Adora

STATEMENT:

Deliberative

Adora Andy
Press Secretary

U.S. Environmental Protection Agency
Office of Public Affairs
202-564-2715
andy.adora@epa.gov

From: Bob Perciasepe/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Scott
Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Date: 11/09/2009 01:59 PM
Subject: Re: *ASAP*DECISION: Please approve statement

Deliberative

STATEMENT:

Deliberative

Bob Perciasepe
US EPA
Office of the Administrator
1200 Pennsylvania Ave., ARN
(o)202 564 2410
(c) **Personal Privacy**

From: Richard Windsor/DC/USEPA/US
To: Adora Andy/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob
Perciasepe/DC/USEPA/US@EPA
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date: 11/09/2009 01:51 PM
Subject: Re: *ASAP*DECISION: Please approve statement

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Cc: Allyn Brooks-LaSure

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[Compare the Fish & Wildlife Service right to publish](#)

To: CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]; N=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]; N=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]; N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]; N=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Wed 11/18/2009 6:58:38 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement
[of proposed actions](#)
www.regulations.gov
<http://www.osmre.gov/topic/Oversight/SCM/SCM.shtml>
Oversight@osmre.gov

As a general proposition, your approach is fine.

Deliberative

Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Seth Oster/DC/USEPA/US
To: Adora Andy/DC/USEPA/US@EPA
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA
Date: 11/18/2009 01:51 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement

Yes, we'll need to have a statement ready.

Deliberative

Deliberative

Seth Oster
Associate Administrator
Office of Public Affairs
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

From: Adora Andy/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date: 11/18/2009 12:02 PM
Subject: *HEADS UP** FINAL press release for MTM announcement

Hey folks,
Below is the final MTM press release from DOI. It goes to the public at 2:30pm ET today and to the Hill and stakeholders at 1:30pm ET. I've cc'd folks in New Orleans so that they can make sure LPJ sees it.
NOTE: The ANPR discussed in the press release is expected to be published in the Federal Register later this week. DOI says the policy folks in "our agencies" (I guess that includes EPA) are hammering out the final reviews with OMB.
Do you think we should prepare a responsive statement, just in case we're asked for one?

Thanks,
Adora

Date: November 18, 2009

Contact: Peter Mali (202) 536-7351

Frank Quimby (202) 208-6416

Interior Strengthens Coal Mining Oversight, Announces Initiatives to Better Protect Streams in Coal Country

WASHINGTON, D.C. – The Department of the Interior is taking immediate actions to strengthen oversight of state surface coal mining programs and promulgating Federal regulations to better protect streams affected by surface coal mining operations, Interior officials announced today.

"America's vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment," said Assistant Secretary for Land and Minerals Management Wilma Lewis. "We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to coal operations and the communities that depend on coal for their livelihood, strengthen our oversight and inspections, and work to better protect streams and water quality."

Interior's Office of Surface Mining Reclamation and Enforcement (OSM) is publishing an advance notice of

proposed rulemaking regarding the protection of streams from the adverse impacts of surface coal mining operations. The notice requests comments on alternatives for revising the current regulations, which include the stream buffer zone rule issued by the Bush Administration in December 2008.

The 2008 rule modified a 1983 rule that allowed the dumping of overburden within 100 feet of a perennial or intermittent stream only when such activities “will not cause or contribute to the violation of State or Federal water quality standards and will not adversely affect the water quantity or quality or other environmental resources of the stream.” The 2008 rule allows a surface coal mine operator to place excess material excavated by the operation into streams if the operator can show it is not reasonably possible to avoid doing so.

While the new rule is being developed, Interior is taking immediate actions to strengthen protections for streams and communities in coal country, provide regulatory certainty for industry, and bolster OSM’s oversight and enforcement activities.

“We are moving as expeditiously as possible in the rulemaking process, but we will not take shortcuts around the law or the science,” said OSM Director Joe Pizarchik. “Until we complete the new rule, we have to manage the shortcomings of the 2008 rule. OSM will establish a new practice for reviewing permits under the Surface Mining Control and Reclamation Act (SMCRA) that would improve consistency and coordination with other Federal agencies.”

Under the new practice, the review and approval of SMCRA permits must be coordinated with reviews and authorizations required under the Clean Water Act. States must confirm that mining activities in stream buffer zones will not violate state or federal water quality standards. OSM will work with the Corps of Engineers and the Environmental Protection Agency to coordinate these permitting processes and ensure effective and coordinated compliance with provisions of the Clean Water Act.

Lewis and Pizarchik also announced a number of proposed actions to improve the agency’s effectiveness in overseeing state implementation of their approved surface coal mining regulatory programs. Under these proposed actions, OSM would, for the first time since coal-producing states assumed responsibility for their regulatory programs, conduct independent inspections of operators with state-issued surface coal mining permits. OSM would also conduct more oversight inspections, place greater emphasis on reducing the off-site impacts of mining, and review more state-issued surface coal mining permits and state permitting processes in an effort to improve state permitting decisions. The new OSM oversight and enforcement policy will also include revised guidelines for conducting oversight inspections.

“Through tougher oversight and stronger enforcement of SMCRA, we are putting all hands on deck to ensure that Appalachian communities are protected,” Pizarchik added. The reforms announced today are consistent with the Obama Administration’s commitments in a June 11, 2009, Memorandum of Understanding (MOU) among the Department of the Interior, the Environmental Protection Agency, and the Army Corps of Engineers to reduce the harmful environmental consequences of Appalachian surface coal mining.

The public is invited to review and comment on the proposed rulemaking and on OSM’s proposed Oversight Improvement Actions. The advance notice of proposed rulemaking will be sent to the Federal Register shortly. Beginning on the date of publication, comments may be submitted using the Federal e-Rulemaking Portal at www.regulations.gov. The document has been assigned Docket ID: OSM-2009-0009.

The public is also invited to review and comment by December 18, 2009, on OSM’s proposed Oversight Improvement Actions, which can be accessed at (<http://www.osmre.gov/topic/Oversight/SCM/SCM.shtm>). The preferred method for submitting comments is via e-mail to Oversight@osmre.gov. Comments may also be mailed to: Administrative Record (MS 252 SIB), Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC, 20240.

[attachment "11-18-09 Coal ANPR.doc" deleted by Seth Oster/DC/USEPA/US]

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Seth Oster/OU=DC/O=USEPA/C=US
Sent: Wed 11/18/2009 7:02:48 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement
[of proposed actions](#)
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Oversight@osmre.gov

Ok, thanks Bob.

Deliberative

Seth

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From: Bob Sussman/DC/USEPA/US
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Date: 11/18/2009 01:58 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement

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[attachment "11-18-09 Coal ANPR.doc" deleted by Seth Oster/DC/USEPA/US]

To: CN=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA;CN=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Brendan Gilfillan/OU=DC/O=USEPA/C=US@EPA;CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]; N=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Wed 11/18/2009 7:06:22 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement of proposed actions
www.regulations.gov
<http://www.osmre.gov/topic/Oversight/SCM/SCM.shtml>
Oversight@osmre.gov

Deliberative

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From: Seth Oster
Sent: 11/18/2009 02:02 PM EST
To: Bob Sussman
Cc: Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Peter Silva; Richard Windsor; Robert Goulding
Subject: Re: *HEADS UP** FINAL press release for MTM announcement
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Deliberative

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Date: 11/18/2009 01:58 PM

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Date: November 18, 2009

Contact: Peter Mali (202) 536-7351

Frank Quimby (202) 208-6416

Interior Strengthens Coal Mining Oversight, Announces Initiatives to Better Protect Streams in Coal Country

WASHINGTON, D.C. – The Department of the Interior is taking immediate actions to strengthen oversight of state surface coal mining programs and promulgating Federal regulations to better protect streams affected by surface coal mining operations, Interior officials announced today.

"America's vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment," said Assistant Secretary for Land and Minerals Management Wilma Lewis. "We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to coal operations and the communities that depend on coal for their livelihood, strengthen our oversight and inspections, and work to better protect streams and water quality."

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While the new rule is being developed, Interior is taking immediate actions to strengthen protections for streams and communities in coal country, provide regulatory certainty for industry, and bolster OSM's oversight and enforcement activities.

"We are moving as expeditiously as possible in the rulemaking process, but we will not take shortcuts around the law or the science," said OSM Director Joe Pizarchik. "Until we complete the new rule, we have to manage the shortcomings of the 2008 rule. OSM will establish a new practice for reviewing permits under the Surface Mining Control and Reclamation Act (SMCRA) that would improve consistency and coordination with other Federal agencies."

Under the new practice, the review and approval of SMCRA permits must be coordinated with reviews and authorizations required under the Clean Water Act. States must confirm that mining activities in stream buffer

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From: CN=Adora Andy/OU=DC/O=USEPA/C=US
Sent: Wed 11/18/2009 7:13:44 PM
Subject: Re: *HEADS UP** FINAL press release for MTM announcement
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What about this?

Deliberative

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Cc: []

From: CN=Bob Sussman/OU=DC/O=USEPA/C=US

Sent: Wed 11/18/2009 11:50:30 PM

Subject: Draft permit considerations - Small Version 10-22-09
[~WRD0004.doc](#)

This detailed document providing an overview of EPA's approach to reviewing MTM 404 permits was prepared by R3 and shared with Randy Huffman of WVa during Bill Early's recent visit to the state. There was no HQ review of the document and no copy was shared with us until today. The document clearly should have received HQ and cross-agency scrutiny and sign-off before being furnished to the State. I would hope we can discuss this issue with Shawn.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Discussion Issues: Mining related CWA Section 404 elements

Permit Data Needs

Surface coal mining projects are large in scope and complex in nature. As such it is essential that the Agencies reviewing these projects have appropriate data, provided by the applicant, to fully review the aquatic ecosystem impacts that may occur with these projects. This information is essential to conduct a robust and comprehensive review of the substantive environmental criteria to be met as provided in CWA Section 404(b)(1) Guidelines. The essential information is substantially more than required for issuance of a Public Notice. However, it is essential for evaluation of compliance with the Guidelines. This list included here may or may not be above and beyond what is currently required in a 404 permit application submittal.

1. Digital geospatial boundaries for proposed project and individual valley fills.
2. Total acreage of surface disturbance area (mineral extraction area) (in acres).
3. Volume of excess spoil (in cubic yards). Disposal location (as on site/off site/combination).
4. Spoil for each valley fill (in cubic yards).
5. Drainage area above each toe of fill and each sediment pond, whichever is further downstream (in acres).
6. Stream impacts resulting from valley fills, sediment ponds, slurry ponds, in-stream mining (in linear feet of permanent perennial, intermittent, and ephemeral) (in linear feet of temporary perennial, intermittent, and ephemeral).
7. Pre-mine sampling data and sampling location for total dissolved solids, conductivity, sulfates, and macro invertebrates IBI.
8. The Cumulative Hydrological Impacts Assessment (CHIA) and Probable Hydrologic Consequences (PHC)
9. Any sampling data for total dissolved solids, conductivity, sulfates, and macro invertebrates IBI for adjacent mines included with the (CHIA) or other sources.
10. Geologic Strata information from Core Samples. Analysis of Selenium, acid-producing and any strata that may cause or contribute to conductivity.

Water Quality

No permit shall be issued if the permit application fails to adequately demonstrate that the discharges will not cause or contribute to an excursion from applicable State water quality standards and will not cause or contribute to significant degradation of downstream waters. In order to assure that the issuance of a Section 404 permit will not trigger the above; monitoring of down stream water quality is essential. This should include permit conditions which require monitoring for WVSQI, Conductivity, TDS,

sulfates and Se. Monitoring schemes should be employed pre-construction, during construction, and post-construction in order to develop background data and to indicate if or when excursions may occur. As part of this monitoring strategy permits need to be conditioned in a clear fashion in order to address and resolve water quality issues. This may include the suspension of a permit and/or impose additional mitigative requirements on the permittee. Some of the elements included in the avoidance and minimization section are meant to highlight methods which may be employed to minimize downstream water quality impacts.

Avoidance and Minimization

To determine the LEDPA the applicant should exhaust a comprehensive evaluation of mining methods and combinations of methods, mine plan designs and configurations, fill placement options, and BMP designs to protect water quality. The list below is examples of such avoidance and minimization options that could/should be employed to reduce impacts. Other BMP's may be available and "best available technologies" should be employed to the fullest extent practicable.

Mining ratio analysis – compile a detailed geologic model of the coal seams, overburden and interburden including consideration of previous surface and deep mined areas in order to clearly identify areas of high ratio coal that might be sub economic to mine. Deletion of these sub economic areas from the mine plan should be considered in relation to the environmental impact of the extraction.

Extended depth contour mining – evaluate leaving high ratio areas along the center of ridges thus preserving the original watershed boundaries and allowing natural propagation of revegetation from both above and below the disturbed area

Alternative mining methods – for areas of high ratio (overburden/coal) or portions of the resource that are sub economic, evaluate the use of other mining methods including deep mining, highwall miner or auger. Use of alternate mining approaches could allow the recovery of additional coal resources and minimizes the production of spoil.

Off site disposal – in order to reduce the quantity of excess spoil placed in aquatic resources, evaluate all possible disposal locations including adjacent mining locations

AOC+ Model – use the Kentucky or West Virginia protocols to select the valleys that are the optimum for the disposal of excess spoil, the objective should be to select the best locations in order to minimize stream impacts.

Fill location – when selecting fill sites select fills that complement each other, such as being "back to back" in order to maximize the quantity of additional backfill.

Side hill fills – evaluate the use of side hill fill where the existing stream is relocated prior to any mining or fill activity, thus minimizing temporal losses. The valley can then be filled using a side hill fill approach with the toe of the fill buttressed against the opposing valley wall. This type of fill increases stability and can also reduce water quality impacts if placed on the up-dip side of valley

thus minimizing groundwater flow into the fill. In addition, the other side of the valley is still providing natural flow and clean freshwater. The relocated stream should have a buffer on the fill side as well to also aid in water quality protection. This methodology also incorporates upfront mitigation techniques.

Number of fills – reduce the number of fills thereby reducing the percentage of the drainage area that flows through a fill.

Direction of mining – whenever possible mine down dip so that any infiltration of water into the backfill is contained in the pit and not discharged through the pond.

Materials Handling plans- address the areas or strata that are mineral-rich that are likely to lead to high conductivity concerns. Mining designs or practices that will ameliorate water quality concerns should be employed to minimize down stream water quality impacts.

Fill Construction – consideration for how the fill is constructed and designed so as to ameliorate water quality concerns.

Post Mine Land Use – when proposed permits incorporate post mine land use plans, an alternatives analysis must be provided for both the mining and post-mining land use proposal to assure that the LEDPA is achieved.

Sequential filling- Build and monitor one valley fill at a time in order to assure that water quality standards are not violated.

Sedimentation Ponds – consideration of design alternatives and/or construction alternatives to remove them from waters of the U.S.

When an alternative is deemed practicable an analysis of environmental impacts should be performed and a comparison with other practicable alternatives to determine LEDPA. This comparison and analysis should include an explanation and the economics involved of the haul distance, slopes, safety, and other considerations used in the decision to determine the preferred alternative. In addition, as these methods are used for the purpose of minimizing downstream water quality impacts the permits should be conditioned to require monitoring and ensure their effectiveness. Permits should be conditioned to address instances when monitoring indicates violations of water quality standards. As construction and operation of the mine is underway, it is possible that the mine plan may change and that additional avoidance and minimization could occur. As such, incorporation of a construction adaptive management plan should be made to address changes in the mine plan. In addition, the permit should also require the applicant to certify the mine plan before beginning each new valley fill and provide post-mining “as built” plans.

Mitigation

Headwater streams are vital components of the watershed. They provide many important functions necessary for the health and vitality of downstream systems. To that end it is important to accurately assess the current functions of the streams that are being proposed to be impacted. There is no officially approved functional assessment methodology, but there are many approaches and they are all viewed as tools to assess functions. It is vital that whatever methodology is used there must be an accurate assessment of the current

water quality, biological communities as well as the structure or physical performance of the stream. For on-site stream creation, the mitigation at a minimum must achieve on site functionality as well as the replacement of eco-services that the natural stream contributed to downstream (e.g. provide a biological replenishment pool, carbon and detrital export etc). From this information a proposal to compensate for unavoidable impacts should be developed. Key requirements for Mitigation plans include:

- Should be located within the sub-watershed (HUC 12). (Consideration for a larger watershed area may be necessary under certain circumstances)
- Created stream channels utilizing on-site sediment ditches must be designed to develop good water quality, good healthy and diverse biological communities, similar structure, and provide for lost hydrologic regime. The goal of these streams are to become jurisdictional channels, therefore, they must achieve their basic designated use for aquatic life. We must ensure that these streams do not become sources of pollution and could later be assessed by the State as impaired and thus included on the CWA Section 303(d) list.
- Other opportunities may exist to improve the overall water quality of the sub-watershed. Consideration of proposals that include watershed improvements as part of an overall mitigation strategy will be considered. The applicant would need to conduct a watershed assessment in order to identify such opportunities. These proposals must focus on improving or maintaining the biological, physical, and chemical components of the aquatic resources in the watershed and replacement of the functions lost by the proposed project.
- Observable and measureable success criteria will include biological, chemical and physical components.
- An expected timeframe in which success will reasonably be expected to be achieved needs to be proposed and the mitigation should be monitored for that length of time in order to assure success.
- A detailed monitoring plan outlining the observable and measureable physical, chemical and biological criteria, expected standards to achieve, and needs to be incorporated into the permit conditions.
- An adaptive management plan that identifies alternate plans and strategies should the desired targets not be achieved (Plan B) needs to be part of the mitigation proposal.
- Determinations on temporary vs. permanent impacts need to be refined. This should include an analysis of the temporal loss and an estimated time of recovery. Should functions be impacted which are not temporary in nature then these impacts need to be viewed as permanent impacts to waters.
- Final mitigation plans must identify actions that will be taken to protect the mitigation projects long-term.
- Preservation as a method of mitigation for impacts to aquatic resources will be considered viable in only limited circumstances. The area must meet the requirements as outlined in the Mitigation Rule (March, 2009), or areas can be proposed if it is tied to protection of water quality and maintaining vital headwaters to maintain freshwater dilution on site or in the watershed.

Monitoring

Monitoring requirements are an essential component of the permit. They must be linked to enforceable criteria and permit conditions and used as the mechanism to ensure compliance of all regulatory requirements. The information that is obtained from a monitoring program will allow the Agencies to develop an adaptive management approach to projects by informing what project elements work and those that don't. Over time, this will allow the Agencies to develop predictable protocols for which the industry can rely. In addition, we will be able to identify effective and proven BMP's which ensure compliance with the Clean Water Act and can become standardized strategies for minimizing impacts.

Cumulative Impacts

We need a process to identify reasonably foreseeable impacts in both the 12- and 8-digit HUCs. This needs to include an assessment of the current state of the HUC, including impairments and resources, any expected impacts from the permit proposed, and impacts from other proposals in the HUC. A more extensive review of current research and guidelines will be done in the next few weeks to add more details of what needs be considered for cumulative impacts. For now, a basic geospatial analysis of the both the 12- and 8-digit HUCs where the proposed permit is being located is discussed in the bullets below. **(How is Louisville District analyzing CI?)**

DATA LAYERS TO EXAMINE & ANALYZE:

- Aerial photography of area - <http://wvgis.wvu.edu/>
- National Hydrography Dataset (NHD) at 1:24000 scale or better - <http://wvgis.wvu.edu/>
- Current mining boundaries – WVDEP OMR data, <http://gis.wvdep.org/data/omr.html> (see examples)
 - Metrics to calculate – percent current mining in HUC, percent additional mining in HUC
- Current impaired streams – WVDEP
- TMDL streams and assessment data, including GIS files – WVDEP
- Baseline water quality sampling points in shapefile – Applicant (see example)
 - Water quality data should include minimum and maximum specific conductivity, other chemical results, WVSCI scores
 - Can also be a map and table provided by Applicant
- Coal Beds - <http://www.wvgs.wvnet.edu/www/coal/cbmp/coalims.html>
- Drinking water facilities - <http://www.wvdhhr.org/oehs/ced/dm/>
- Percent of HUC in urban and/or agriculture
- NPDES outfalls – from existing coal mines and other industry

- Watershed & hydrology models ???

Examples:

Environmental Justice

Executive Order 12898 directs every Federal Agency “to the greatest extent practicable and permitted by law” to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions.” It is essential that EJ is considered in the review of and decision-making for CWA Section 404 permits, including surface mining projects. These considerations should be incorporated in the development of and review of NEPA documents in support of permit decisions. Opportunities should be identified to ensure meaningful public participation by the communities affected by these proposed projects.

The Office of Environmental Justice has identified 6 factors that through its examination of peer reviewed literature that may contribute to disproportionate environmental health impacts including: 1) proximity and exposure to environmental hazards, 2) susceptibility/vulnerability, 3) unique exposure pathways, 4) cumulative burdens, 5) diminished ability to participate in the decision making process, and 6) physical infrastructure. A seventh factor has also been identified that deserves consideration: 7) chronic community stress.

Consideration of Executive Order 12898 and the factors identified above, will provide a useful background for the comprehensive assessment of impacts of Environmental Justice concern, and will provide a basis for the meaningful and appropriate involvement of the affected community, as well as the ability to identify and potentially mitigate adverse and disproportionate impacts that may affect communities of concern.

To: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA;CN=Scott
Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Peter
Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[];
N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Bob
Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Peter
Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[];
N=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Arvin
Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Peter
Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[];
N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA;CN=Seth
Oster/OU=DC/O=USEPA/C=US@EPA;CN=Peter
Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[];
N=Seth Oster/OU=DC/O=USEPA/C=US@EPA;CN=Peter
Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[];
N=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Shawn
Garvin/OU=R3/O=USEPA/C=US@EPA[]; N=Shawn Garvin/OU=R3/O=USEPA/C=US@EPA[]
Cc: []
From: CN=Bob Sussman/OU=DC/O=USEPA/C=US
Sent: Tue 11/24/2009 10:47:17 PM
Subject: Fw: District Court holds Corps mining permits invalid for insufficient public notice
ENV DEFENSE #449606-v1-Loadout Fola - ORDER on notice.PDF

This is an important court decision which may throw a monkey wrench into the Corps permitting process and could call into question further action on the 79 permits. The issue of adequate public notice is obviously an important one in light of EPA's commitment to transparency. I expect EPA will argue against an appeal although I suspect the Corps will want to take one.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 11/24/2009 05:44 PM -----

From: Karyn Wendelowski/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Gregory
Peck/DC/USEPA/US@EPA, neugeboren.steven@epamail.epa.gov, Suzanne Schwartz/DC/USEPA/US@EPA,
David Evans/DC/USEPA/US@EPA, Brian Frazer/DC/USEPA/US@EPA, Timothy
Landers/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA
Date: 11/24/2009 04:03 PM
Subject: Fw: District Court holds Corps mining permits invalid for insufficient public notice

This order issued today remanding two coal mining permits to the Corps because the public notice issued by the Corps was insufficient to allow for meaningful public comment under the CWA and NEPA could have far-reaching consequences as all Corps permits have provide similar public notices to those challenged here.

I'll note that I've often heard from the regions that the Corps public notices simply don't provide enough

information for the regions to properly review the permits, including for the reason identified by the plaintiffs - lack of information about mitigation.

The next step will be a decision by the Administration whether or not to appeal this decision. EPA can send a letter to DOJ making a recommendation - please let me know if you'd like me to begin drafting a letter (and if I'm correct in assuming we would recommend against appeal). On the policy side of things, staff of the three agencies in Pittsburgh agreed that meaningful public participation should be a goal of the process.

----- Forwarded by Karyn Wendelowski/DC/USEPA/US on 11/24/2009 03:40 PM -----

From: "Morris, Cynthia (ENRD)" <CMorris@ENRD.USDOJ.GOV>

To: Karyn Wendelowski/DC/USEPA/US@EPA

Date: 11/24/2009 03:34 PM

Subject: FW: summary of the 55 page decision below

Karyn - this opinion just in from Judge Chambers holds that the Loadout and Fola permits are invalid under CWA and NEPA because the public notice provided by the Corps was insufficient to allow for meaningful public comment, since the notices did not contain description of the mitigation plans. The Court stayed the order for 60 days.

Although this decision relates only to the Loadout and Fola permits, the same procedural flaw may be applicable to other permits.

You may share this with others at EPA who may be interested.

cj

From: Morris, Cynthia (ENRD)

Sent: Tuesday, November 24, 2009 3:27 PM

To: Young, Russell (ENRD)

Subject: summary of the 55 page decision below

The attached Memorandum Opinion and Order was issued by Judge Chambers on Tuesday, Nov. 24, 2009, denying in part and granting in part the cross-motions for summary judgment filed by the coal companies and plaintiffs with respect to the Loadout and Fola permits.

The Court granted the coal company motions for summary judgment in part, to the extent the issues raised by Plaintiffs are governed by the Fourth Circuit decision in *OVEC v. Aracoma*, 556 F.3d 177 (2009).

The Court held in abeyance the portion of the motion for summary judgment regarding the selenium discharges in the Fola permit, as the matter had not been fully briefed.

The Court granted Plaintiffs motions for summary judgment, and denied the coal companies' motions for summary judgment, with respect to the issue of public notice, holding that the notice provided by the Corps was inadequate under both the CWA and NEPA because the public notice failed to provide sufficient information regarding the mitigation that would be required under the permit.

As to the notice required under the CWA, the Court found that the Corps' decision as to when the application was "complete", which triggers the 15 day period in which public notice of the application must be provided, was not entitled to substantial deference, and the Corps' determination that the application was "complete" before the proposed mitigation plan had been submitted was unreasonable because the mitigation

plan is a significant part of the permit process.

As to NEPA, the Court held that while the Corps is not required to publish the entire mitigation plan for comment, it must provide sufficient information to allow for meaningful public comment, and that includes, at minimum, a description of the mitigation plan.

Finally, the Court took the Corps to task for its failure to issue supplemental public notice, in view of the fact that the mitigation plans were available to the Corps approximately 9 months and nearly 18 months before the permits were issued. The Court did not hold that supplemental notice was required because it is discretionary with the Corps, but noted that such notice would have been prudent and would have avoided the expenditure of resources in litigating this issue.

The Court remanded the permits to the Corps with instructions to issue a new public notice, receive and respond to comments on the revised notices, and reconsider each permit with any new comments in mind. The Order of remand is stayed for 60 days.

To: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Clay Diette/OU=DC/O=USEPA/C=US@EPA;CN=Adora
Andy/OU=DC/O=USEPA/C=US@EPA;CN=Sarah
Dale/OU=DC/O=USEPA/C=US@EPA;CN=Christopher Busch/OU=DC/O=USEPA/C=US@EPA[];
N=Adora Andy/OU=DC/O=USEPA/C=US@EPA;CN=Sarah
Dale/OU=DC/O=USEPA/C=US@EPA;CN=Christopher Busch/OU=DC/O=USEPA/C=US@EPA[];
N=Sarah Dale/OU=DC/O=USEPA/C=US@EPA;CN=Christopher
Busch/OU=DC/O=USEPA/C=US@EPA[]; N=Christopher
Busch/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Diane Thompson/OU=DC/O=USEPA/C=US
Sent: Fri 12/4/2009 11:34:37 PM
Subject: Fw: Planning Memo for WH -- review draft
EPA Strategic Planning 2010 set redline clb.doc

Administrator,

Attached is a draft letter responding to a Cabinet Affairs request for a 4 page summary of 2010 agenda items. here is the request;

2010 Strategic Planning – For the 2010 agenda, we are looking for a memo of no more than 4 pages. Bullets with short paragraphs/descriptions would be easiest at this initial stage. We are most interested in seeing (a) what important actions must be taken in 2010 – either by statute or by regulatory requirement – that are either controversial or offer a good opportunity to further one of our key pillars of reform or broader government efficiency; (b) signature ideas that are high priorities for your Secretary, with a sense of the timetable and ultimate deliverables; and (c) areas that you believe are systemically broken that would require multiple agencies to tackle to resolve – but have been begging for solutions for years.

We are late in responding, but I don't think very many folks got their lists in on time give OMB passback. Bob and I were hoping we could get your feedback so we can get this in on monday. Letter can, of course, come from you if you prefer. I am really a placeholder.

Clay, Sarah and Adora --- could someone please provide the Administrator hard copy of this for her review.

Thank you,
Diane

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA;CN=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Lawrence Elworth/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Bob Perciasepe/OU=DC/O=USEPA/C=US@EPA;CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Lawrence Elworth/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Scott Fulton/OU=DC/O=USEPA/C=US@EPA;CN=Lawrence Elworth/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Lawrence Elworth/OU=DC/O=USEPA/C=US@EPA;CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]; N=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA;CN=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA[]; N=Chuck Fox/OU=CBP/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Mon 12/14/2009 12:18:54 PM
Subject: Re: Status of CAFO settlement talks and litigation

GREAT news !!! Thx.

----- Original Message -----

From: Bob Sussman

Sent: 12/14/2009 07:10 AM EST

To: Richard Windsor; Bob Perciasepe; Scott Fulton; Lawrence Elworth; Lisa Heinzerling; Arvin Ganesan

Cc: Peter Silva; Chuck Fox

Subject: Fw: Status of CAFO settlement talks and litigation

Lisa et al. We have negotiated a settlement in principle with the environmental community of litigation challenging the Bush CAFO water permitting rule.

Deliberative

Deliberative

----- Original Message -----

From: Steven Neugeboren

Sent: 12/13/2009 09:01 PM EST

To: Peter Silva; Bob Sussman; Scott Fulton

Cc: Avi Garbow; Mary-Kay Lynch; Mike Shapiro; Gregory Peck; Jim Hanlon; Randy Hill; Linda Boornazian; Allison Wiedeman; Rebecca Roose; George Utting; MaryEllen Levine; Sylvia Horwitz

Subject: Status of CAFO settlement talks and litigation

Pete, Bob and Scott

We wanted to give you an update on settlement discussions that we've had with environmental petitioners in the CAFO litigation and a general litigation update. OGC and OWM and the Department of Justice have been engaged in settlement negotiations with the Environmental Petitioners challenging the 2008 CAFO Rule (NRDC, Waterkeeper Alliance and Sierra Club) for the past several months. We have now reached an agreement "in principle" with counsel for those petitioners, which is reflected in the attached settlement communication.

The next steps are to draft a settlement agreement that includes the agreed-up terms, and which addresses such issues as dismissal of the petition for review of the 2008 rule, attorney fees, and remedies if commitments are not fulfilled. Attorneys fees would be paid from the Judgment Fund and not from EPA's appropriation. Once a settlement agreement is drafted to the satisfaction of the parties, it will be circulated for senior management formal concurrence and OMB review.

To summarize, the terms of settlement call for--

Deliberative

Litigation Update

All of the petitions challenge the 2008 CAFO rule, and one of the petitions, filed by Poultry Petitioners, also challenged three EPA letters sent after the rule was promulgated. The 5th Circuit ordered one joint brief on the challenge to the rule to be filed by Industry Petitioners, and one brief by Environmental Petitioners, and one separate brief by Poultry Petitioners on the letters. EPA's response brief is due on February 19, 2010.

While the opening briefs by all petitioners were filed on Monday, December 7, we jointly with the environmental petitioners a motion to sever their petition and hold it in abeyance during the settlement process. Without waiting for briefing on the motion, the court last week severed the environmental petitioners' petition and dismissed it without prejudice, allowing for reinstatement by either party within 180 days. That means we have some time to see how this plays out, hopefully by successfully reaching a final settlement.

Let us know if you have any questions.

Steve Neugeboren

Associate General Counsel
Water Law Office
EPA Office of General Counsel
202-564-5488
fax 202-564-5477

To: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 12/22/2009 1:32:39 PM
Subject: Re: ACTION: memo language

Fine with me.
Lisa P. Jackson

----- Original Message -----

From: Allyn Brooks-LaSure
Sent: 12/22/2009 08:30 AM EST
To: Bob Perciasepe; "Sussman, Bob" <sussman.bob@epa.gov>; Diane Thompson; David McIntosh; Arvin Ganesan; Lisa Heinzerling
Cc: "Jackson, Lisa P." <windsor.richard@epa.gov>; "Oster, Seth" <Oster.Seth@epa.gov>; "Moats, Michael" <moats.michael@epa.gov>
Subject: ACTION: memo language
Folks-

Below is a draft message from LPJ that aims to capture the end of year accomplishments. OPA has combined this with a direct video message LPJ recorded last week.

Please provide any thoughts or comments on the copy. We hope to send to internal stakeholders later today. Thanks all.

Colleagues:

Deliberative

Deliberative

Sincerely,
Lisa P. Jackson

MABL.

M. Allyn Brooks-LaSure
Office of the Administrator
U.S. Environmental Protection Agency
Cell: **Personal Privacy**

To: "Richard Windsor" [Windsor.Richard@epamail.epa.gov]
From: CN=Robert Goulding/OU=DC/O=USEPA/C=US
Sent: Tue 12/22/2009 2:06:58 PM
Subject: Fw: Briefing materials on MTM & Conductivity
MTM & Cond Brief for Adm.ppt

Fyi

----- Original Message -----

From: Colleen Flaherty
Sent: 12/22/2009 09:05 AM EST
To: Robert Goulding; Heidi Ellis
Subject: Fw: Briefing materials on MTM & Conductivity
Just got these for the 10am mtg. Can they be emailed to the adm? Thx.

Colleen Flaherty
Special Asst to the Administrator

Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: Maryellen Radzikowski
Sent: 12/22/2009 09:02 AM EST
To: Colleen Flaherty
Cc: Michael Slimak; Linda Tuxen
Subject: Fw: Briefing materials on MTM & Conductivity
Mary Ellen Radzikowski
Chief of Staff (acting)
Office of Research and Development

Phone: (202) 564-6757
Fax: (202) 565-2911
radzikowski.maryellen@epa.gov

----- Forwarded by Maryellen Radzikowski/DC/USEPA/US on 12/22/2009 09:02 AM -----

From: Kevin Teichman/DC/USEPA/US
To: Lek Kadeli/DC/USEPA/US@EPA, Maryellen Radzikowski/DC/USEPA/US@EPA
Date: 12/22/2009 08:02 AM
Subject: Fw: Briefing materials on MTM & Conductivity

Kevin Teichman
Deputy Assistant Administrator
for Science (8101R)
Office of Research and Development
Room 41225 Ronald Reagan Building
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

(202) 564-6620 (Telephone)

(202) 565-2430 (Fax)

teichman.kevin@epa.gov (email)

----- Forwarded by Kevin Teichman/DC/USEPA/US on 12/22/2009 08:00 AM -----

From: Michael Slimak/DC/USEPA/US

To: Paul Anastas/DC/USEPA/US@EPA, Nathan Gentry/DC/USEPA/US@EPA, John Forren/R3/USEPA/US@EPA, John Pomponio/R3/USEPA/US@EPA, Kevin Teichman/DC/USEPA/US@EPA, Ronald Landy/ESC/R3/USEPA/US@EPA, Bruce Rodan/DC/USEPA/US@EPA

Cc: Peter Preuss/DC/USEPA/US@EPA, Susan Norton/DC/USEPA/US@EPA

Date: 12/22/2009 07:57 AM

Subject: Briefing materials on MTM & Conductivity

The Administrator's scheduler sent me an email yesterday saying today's briefing for her on this topic is still on the calendar. I cannot make this mornings 10:00 am briefing as I'm taking my elderly mother to the airport. Peter Preuss and Sue Norton will give the presentation. The briefing package is attached.

Mike

To: "Lisa" [windsor.richard@epa.gov]
From: CN=Heidi Ellis/OU=DC/O=USEPA/C=US
Sent: Tue 12/22/2009 2:07:26 PM
Subject: Fw: Briefing materials on MTM & Conductivity
MTM & Cond Brief for Adm.ppt

For your 10AM.

----- Original Message -----

From: Colleen Flaherty
Sent: 12/22/2009 09:05 AM EST
To: Robert Goulding; Heidi Ellis
Subject: Fw: Briefing materials on MTM & Conductivity
Just got these for the 10am mtg. Can they be emailed to the adm? Thx.

Colleen Flaherty
Special Asst to the Administrator

Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: Maryellen Radzikowski
Sent: 12/22/2009 09:02 AM EST
To: Colleen Flaherty
Cc: Michael Slimak; Linda Tuxen
Subject: Fw: Briefing materials on MTM & Conductivity
Mary Ellen Radzikowski
Chief of Staff (acting)
Office of Research and Development

Phone: (202) 564-6757
Fax: (202) 565-2911
radzikowski.maryellen@epa.gov

----- Forwarded by Maryellen Radzikowski/DC/USEPA/US on 12/22/2009 09:02 AM -----

From: Kevin Teichman/DC/USEPA/US
To: Lek Kadeli/DC/USEPA/US@EPA, Maryellen Radzikowski/DC/USEPA/US@EPA
Date: 12/22/2009 08:02 AM
Subject: Fw: Briefing materials on MTM & Conductivity

Kevin Teichman
Deputy Assistant Administrator
for Science (8101R)
Office of Research and Development
Room 41225 Ronald Reagan Building
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.

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Mike

To: CN=Diane Thompson/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 12/31/2009 2:52:32 PM
Subject: Re: Fw: fyi on south coast rail

Its an old letter.

----- Original Message -----

From: Diane Thompson
Sent: 12/31/2009 09:52 AM EST
To: Seth Oster; Eric Wachter
Cc: Richard Windsor
Subject: Re: Fw: fyi on south coast rail

Thanks, Seth.

Eric, I assume the letter referenced below will be controlled to the region, but Arvin and I should be in the review process because of the heightened Congressional interest.

DT

Diane E. Thompson
Chief of Staff
U. S. Environmental Protection Agency
202-564-6999

From: Seth Oster/DC/USEPA/US
To: "Lisa Jackson" <windsor.richard@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>
Date: 12/31/2009 08:51 AM
Subject: Fw: fyi on south coast rail

Just FYI. Monitoring.....

----- Original Message -----

From: Nancy Grantham
Sent: 12/31/2009 08:46 AM EST
To: Seth Oster
Subject: fyi on south coast rail

hi seth,

curt mentioned this on the monday call and diane t followed up with him --- fyi -- on the past history here -- letter to LPJ and remarks by congressman frank -- we will keep you posted.

happy new year

thanks

ng

<http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20090327/MEDIA02/90327004/-1/media07>

For Immediate Release: April 7, 2009

Contact: Kirsten Stade (202) 265-7337

DEMOCRATS PRESSURE EPA TO GREEN-LIGHT PORK — Rep. Frank Says EPA Will Bar Anyone with a “Record of Hostility” to Pet Project

Washington, DC — Democrats pushing pet projects are pressuring the U.S. Environmental Protection Agency to short-circuit scientific reviews and anti-pollution protections, according to Public Employees for Environmental Responsibility (PEER). Politicians saying that they have “assurances” of favorable treatment undercut promises by the Obama administration that EPA and other environmental agencies would follow the rule of law rather than political dictates.

At issue is the controversial \$1.4 billion Fall River/New Bedford rail line to Boston slated to bisect the largest freshwater wetland remaining in Massachusetts — the Hockomock Swamp, which is designated as an Area of Critical Environmental Concern by the Commonwealth of Massachusetts and a priority wetland by the EPA. In a March 27, 2009 interview, Rep. Barney Frank (D-MA) stated he has received “assurances” that EPA will not raise “obstacles” to the rail route that he favors:

“Referring to objections over building the rail through the Hockomock Swamp along a possible Stoughton route, Frank said he and other supporters made sure the new leadership of the U.S. Environmental Protection Agency did not include anyone with ‘a record of hostility’ to the project. ‘I think we are assured on that part,’ he said. ‘We’re going to be environmentally responsible, but we don’t want obstacles put in the way.’”

“We thought the era of litmus tests at EPA was supposed to be over,” stated New England PEER Director Kyla Bennett, an attorney and biologist who was formerly a wetlands regional official at EPA. “How is this different from the political manipulation that the Bush administration exerted over EPA?”

PEER has contended that if EPA truly follows the rule of law it will find that the route through the Hockomock is illegal under Section 404 of the Clean Water Act. PEER today wrote EPA Administrator Lisa Jackson asking her to investigate Rep. Frank’s claims and seeking guarantees that EPA will strictly follow the law in reviewing any proposed permits. PEER is also asking EPA to turn over all communications that it has had with top officials from the Commonwealth about the rail project.

Apart from the myriad negative environmental impacts of the diesel rail project, the state’s official estimates of ridership for the Fall River/New Bedford rail line have fallen by nearly a fifth since 2002 while costs continue to swell. The low ridership figures cut heavily against the claimed environmental benefits for this particular route. Moreover, PEER points out that there are more eco-benign alternatives that the state is not pursuing.

“In essence, Congressman Frank is asking EPA to violate the law to curry favor with Massachusetts politicians,” added Bennett, arguing that while many of the environmental costs of this project are evident, the environmental benefits are unsupported by hard analysis. “This boondoggle has all the earmarks of abusive pork barrel spending that President Obama vowed to stop.”

###

To: CN=Eric Wachter/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Thur 12/31/2009 6:14:37 PM
Subject: Re: Fw: fyi on south coast rail

thx. HNY!

From: Eric Wachter/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Date: 12/31/2009 01:12 PM
Subject: Re: Fw: fyi on south coast rail

Attached are the PEER letter and Ira's response.

[attachment "New.England.PEER.pdf" deleted by Richard Windsor/DC/USEPA/US] [attachment "Scan Signed Response to Existing Control_26.pdf" deleted by Richard Windsor/DC/USEPA/US]

From: Diane Thompson/DC/USEPA/US
To: Eric Wachter/DC/USEPA/US@EPA
Date: 12/31/2009 09:54 AM
Subject: Fw: fyi on south coast rail

Lisa thinks this is an old letter so it might be useful just to see what we said. TX

Diane E. Thompson
Chief of Staff
U. S. Environmental Protection Agency
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 12/31/2009 09:53 AM -----

From: Richard Windsor/DC/USEPA/US
To: Diane Thompson/DC/USEPA/US@EPA
Date: 12/31/2009 09:52 AM
Subject: Re: Fw: fyi on south coast rail

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Diane E. Thompson
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U. S. Environmental Protection Agency
202-564-6999

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To: "Lisa Jackson" <windsor.richard@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>
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Contact: Kirsten Stade (202) 265-7337

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###

To: CN=Bob Sussman/OU=DC/O=USEPA/C=US@EPA[]
Cc: CN=Robert Goulding/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 4/28/2009 7:38:43 AM
Subject: Re: Risk mitigation decisions for soil fumigant pesticides

I agree. Make sure Arvin and staff know.

----- Original Message -----

From: Bob Sussman
Sent: 04/27/2009 08:45 PM EDT
To: Richard Windsor
Cc: Robert Goulding
Subject: Fw: Risk mitigation decisions for soil fumigant pesticides
Sending again in case you missed it before . . .this is one we need to move on right away.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 04/27/2009 08:44 PM -----

From: Bob Sussman/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Cc: Scott Fulton/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Eric Wachter/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date: 04/25/2009 05:58 PM
Subject: Risk mitigation decisions for soil fumigant pesticides

OPPTS briefed me this week on a program of risk mitigation measures it plans to implement for soil fumigant pesticides. Because of the desire to have these measures in place by the 2010 growing season, staff feels that they cannot delay moving forward and thus cannot wait for Steve Owens to be confirmed before getting management sign-off.

Soil fumigants (which include methyl bromide, among other compounds) control a wide variety of pests and are used in the production of numerous high value crops. Current use practices result in off-gassing from treated soil which presents risks to workers and bystanders of acute health effects (eye, nose, throat and upper respiratory irritation) and chronic effects like neurotoxicity and developmental toxicity (methyl bromide only). Right now, there are no required precautions that applicators must take to protect against harmful exposures.

The mitigation measures EPA would require include buffer/restricted use zones around application areas to minimize exposure and written fumigation plans, training and outreach to first responders/communities to explain safe use methods, EPA has solicited two rounds of comment on its proposed measures, in addition to conducting several meetings and field visits. The additional analysis it undertook after the last round of comment resulted in scaling-back buffer requirements that ag groups found objectionable although the concerns of grower groups and some state and federal officials (including USDA) will probably not disappear entirely. Environmental and farmworker groups generally support EPA's approach but feel it does not go far enough. EPA has consulted extensively with the ag

committees in Congress and believes the majority is generally supportive. Nonetheless, many members of Congress from ag states (both D and R) have been engaged on this issue and staff expect some Congressional criticism after it takes final action. (OMB is not a factor here because most EPA actions on pesticides are not subject to OMB review).

Deliberative

Do you agree with going forward on this basis? Let me know what you think -BOB

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

To: "Arvin Ganesan" [ganesan.arvin@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 9/22/2009 9:09:51 PM
Subject: Fw: President Obama Announces More Key Administration Posts

----- Original Message -----

From: Allyn Brooks-LaSure
Sent: 09/22/2009 04:53 PM EDT
To: Richard Windsor
Subject: Fw: President Obama Announces More Key Administration Posts
Chris Smith.

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 09/22/2009 04:52 PM -----

From: "White House Press Office" <whitehouse-lists-noreply@list.whitehouse.gov>
To: Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date: 09/22/2009 04:37 PM
Subject: President Obama Announces More Key Administration Posts

THE WHITE HOUSE
Office of the Press Secretary

FOR PLANNING PURPOSES ONLY
September 22, 2009

President Obama Announces More Key Administration Posts

WASHINGTON – Today, President Barack Obama announced his intent to nominate the following individuals to key administration posts:

Elaine Schuster, Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Laura Gore Ross, Alternate Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Wellington E. Webb, Alternate Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Congressman William Delahunt, Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations (U.S. Representative from the State of Massachusetts)

Congressman Chris Smith, Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations (U.S. Representative from the State of New Jersey)

Mary Warlick, Ambassador to the Republic of Serbia, Department of State

Islam A. Siddiqui, Chief Agricultural Negotiator, Office of the U.S. Trade Representative

Alan D. Bersin, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security

President Obama said, "I am grateful for the willingness of these fine individuals to serve my administration and am confident that they will represent our nation well. I look forward to working with them in the coming months and years."

President Obama announced his intent to nominate the following individuals today:

Elaine Schuster, Nominee for Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Elaine Schuster is a philanthropist, health care and education advocate, and civic activist. She sits on the corporation of Partners Health Care and has been honored by Franciscan Children's Hospital for her work in raising its visibility and generating financial support. She has received the Heritage Society Award from the Brigham & Women's Hospital, where she serves on the Trust Board and the Women's Health Forum. For eight years, Mrs. Schuster was a member of the President's Advisory Committee on the Arts. She also founded the Brandeis Center for Investigative Journalism at Brandeis University, where she is a board member of the Women's Research Program. Mrs. Schuster has served as New England Chair of the Democratic Women's Leadership Forum, and the Massachusetts State Democratic Party has honored her for her work on behalf of the Democratic values. Mrs. Schuster co-founded one of the nation's leading community-based network centers, called PEACE, which provides mentoring, tutoring, and life skill training for inner-city children.

Laura Gore Ross, Nominee for Alternate Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Laura Gore Ross is currently on the board of directors of the Mayor's Fund to Advance New York City and a member of Senator Charles E. Schumer's Judicial Screening Panel. She is an attorney in New York City and previously worked as Chief of Staff for the State of New York Attorney General's office and as Chief Counsel for New York State Senator Roy Goodman. She has volunteered for numerous political campaigns, and was most recently the National Finance Chair of the Democratic Senate Campaign Committee. She holds a B.A. from Barnard College and J.D. from the George Washington University Law School.

Wellington E. Webb, Nominee for Alternate Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations

Wellington E. Webb is a former Mayor of Denver, Colorado and is currently CEO of Webb International, a consulting firm. From 1991 to 2003, Webb served as Denver's Mayor, the first African-American to hold this post. His years in office are noted for his efforts regarding the South Platte River Corridor Project, which involved commercial and residential redevelopment as well as reclamation of park land along the South Platte River in central Denver, and the creation of the successful Denver Health Authority, which was formerly the County Public Hospital. Prior to Webb's tenure as Mayor, he served as Denver City Auditor from 1987 to 1991, and as Executive Director of the Colorado Department of Regulatory Agencies in the Cabinet of Governor Richard Lamm from 1981 to 1987. He holds a B.A. from Colorado State College and an M.A. from the University of Northern Colorado. Mr. Webb serves on the boards of Maximas Corporation, Mexican American Legal Defense Fund, and the Colorado Black Chamber of Commerce.

Congressman William Delahunt, Nominee for Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations (U.S. Representative from the State of Massachusetts)

Congressman William D. Delahunt has represented the Tenth Congressional District of Massachusetts since 1997. He serves as a member of the House Committee on Foreign Affairs and as Chairman of the Subcommittee on International Organizations, Human Rights and Oversight. This Subcommittee conducts oversight of the State Department, foreign aid and export assistance programs, arms control, democracy promotion, and policies towards the United Nations and its affiliated organizations. The Subcommittee also has jurisdiction over policies that promote human rights and international cooperation. With two decades of experience as a prosecutor and a commitment to civil rights, Rep. Delahunt also serves on the Judiciary Committee. As a District Attorney he developed the first prosecutorial unit focused on domestic violence in the United States, and prototype programs to combat violence against women that became models for prosecutors nationally and abroad. Rep. Delahunt also

serves as co-chair of the bipartisan Coast Guard Caucus; House Older Americans Caucus; and the Congressional Working Group on Cuba. A 1963 graduate of Middlebury College in Vermont, Mr. Delahunt later went on to earn a law degree from Boston College in 1967. From 1963 to 1971 he served in the Coast Guard Reserve.

Congressman Chris Smith, Nominee for Representative of the United States of America to the Sixty-fourth Session of the General Assembly of the United Nations (U.S. Representative from the State of New Jersey)

A Member of the United States House of Representatives since 1981, Congressman Chris Smith was sworn into office at the age of 27. Smith currently serves as a senior Republican member of the House Committee on Foreign Affairs, the Ranking Member of the Subcommittee on Africa and Global Health, and a member of the Subcommittee on the Western Hemisphere. He is also the Ranking Member of the Commission on Security and Cooperation in Europe and the Congressional-Executive Commission on China, and is the Dean of the New Jersey Congressional delegation. Rep Smith has also authored thematic human rights legislation, including the Trafficking Victims Protection Act and the Torture Victims Relief Act. Rep. Smith has played a key role in promoting human rights reforms in a number of countries including the former Soviet Union, Romania, Vietnam, China, Sudan, Ireland, and Cuba. He holds a B.A. from Trenton State College.

Mary Warlick, Nominee for Ambassador to the Republic of Serbia, Department of State

Mary Burce Warlick, a career member of the Senior Foreign Service, served until May 2009 as Acting Deputy Assistant Secretary of Defense for Russia, Ukraine and Eurasia Policy and prior to that as Acting Deputy Assistant Secretary of Defense for European and NATO Policy. She served previously as Special Assistant to the President and Senior Director for Russia at the National Security Council (2007-2008) and Director of the State Department's Office of Russian Affairs (2004-2007). Ms. Warlick joined the Foreign Service in 1983. Her previous diplomatic assignments include Minister-Counselor for Economic Affairs at the U.S. Embassy in Moscow (2001-2004), Global Affairs Counselor and Economic Officer in Bonn, Germany (1994-1998), and Economic Officer in Manila, Philippines (1988-1990) and Dhaka, Bangladesh (1986-1988). Previous Washington assignments include Office Director for Ukraine, Moldova and Belarus Affairs (1998-2000), Senior Watch Officer in the State Department's Operations Center (1992-1993), and Economic Officer in the Bureau of Economic and Business Affairs (1990-1992). Ms. Warlick holds a BA from Valparaiso University in Valparaiso, Indiana and an MA from The Fletcher School of Law and Diplomacy at Tufts University.

Islam A. Siddiqui, Nominee for Chief Agricultural Negotiator, Office of the U.S. Trade Representative

Islam A. Siddiqui is currently Vice President for Science and Regulatory Affairs at CropLife America, where he is responsible for regulatory and international trade issues related to crop protection chemicals. Previously, Dr. Siddiqui also served as CropLife America's Vice President for agricultural biotechnology and trade. From 1997 to 2001, Dr. Siddiqui served in various capacities in the Clinton Administration at U.S. Department of Agriculture as Under Secretary for Marketing and Regulatory Programs, Senior Trade Advisor to Secretary Dan Glickman and Deputy Under Secretary for Marketing and Regulatory Programs. As a result, he worked closely with the USTR and represented USDA in bilateral, regional and multi-lateral agricultural trade negotiations. Since 2004, Dr. Siddiqui has also served on the U.S. Department of Commerce's Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, and Health/Science Products & Services, which advises the U.S. Secretary of Commerce and USTR on international trade issues related to these sectors. Between 2001 and 2003, Dr. Siddiqui was appointed as Senior Associate at the Center for Strategic and International Studies (CSIS), where he focused on agricultural biotechnology and food security issues. Before joining USDA, Dr. Siddiqui spent 28 years with the California Department of Food and Agriculture. He received a B.S. degree in plant protection from Uttar Pradesh Agricultural University in Pantnagar, India, as well as M.S. and Ph.D. degrees in plant pathology, both from the University of Illinois at Champaign-Urbana.

Alan D. Bersin, Nominee for Commissioner, U.S. Customs and Border Protection, Department of Homeland Security
Alan Bersin was appointed by Homeland Security Secretary Napolitano in April, 2009 as Assistant Secretary for International Affairs and Special Representative for Border Affairs in the Department of Homeland Security (DHS). In that capacity, he serves as the Secretary's lead representative on Border Affairs and Mexico, for developing DHS strategy regarding security, immigration, narcotics, and trade matters affecting Mexico and for coordinating the Secretary's security initiatives on the nation's borders. Prior to his current service, Bersin served as Chairman of

the San Diego County Regional Airport Authority. Previously, Mr. Bersin served as California's Secretary of Education between July 2005 and December 2006 in the Administration of Governor Arnold Schwarzenegger. Between 1998 and 2005, he served as Superintendent of Public Education in San Diego and from 2000 to 2003 served as a member and then Chairman of the California Commission on Teacher Credentialing. Prior to becoming the leader of the nation's eighth largest urban school district, he was appointed by President Bill Clinton as the United States Attorney for the Southern District of California and confirmed in that capacity by the U.S. Senate. Mr. Bersin served as U.S. Attorney for nearly five years and as the Attorney General's Southwest Border Representative responsible for coordinating federal law enforcement on the border from South Texas to Southern California. Mr. Bersin previously was a senior partner in the Los Angeles law firm of Munger, Tolles & Olson. Mr. Bersin received his A.B. in Government from Harvard University (magna cum laude) and attended Balliol College at Oxford University as a Rhodes Scholar. In 1974, he received his J.D. degree from the Yale Law School.

###

To: "David McIntosh" [mcintosh.david@epa.gov]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 9/22/2009 9:10:00 PM
Subject: Fw: President Obama Announces More Key Administration Posts

----- Original Message -----

From: Allyn Brooks-LaSure
Sent: 09/22/2009 04:53 PM EDT
To: Richard Windsor
Subject: Fw: President Obama Announces More Key Administration Posts
Chris Smith.

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

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To: CN=Arvin Ganesan/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US
Sent: Tue 9/22/2009 9:32:11 PM
Subject: Re: President Obama Announces More Key Administration Posts

Its not PERMANENT is it?

----- Original Message -----

From: Arvin Ganesan
Sent: 09/22/2009 05:16 PM EDT
To: Richard Windsor
Subject: Re: President Obama Announces More Key Administration Posts
That's great. Think we can flip the seat?

Sent from my Blackberry Wireless Device

----- Original Message -----

From: Richard Windsor
Sent: 09/22/2009 05:09 PM EDT
To: "Arvin Ganesan" <ganesan.arvin@epa.gov>
Subject: Fw: President Obama Announces More Key Administration Posts

----- Original Message -----

From: Allyn Brooks-LaSure
Sent: 09/22/2009 04:53 PM EDT
To: Richard Windsor
Subject: Fw: President Obama Announces More Key Administration Posts
Chris Smith.

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 09/22/2009 04:52 PM -----

From: "White House Press Office" <whitehouse-lists-noreply@list.whitehouse.gov>
To: Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date: 09/22/2009 04:37 PM
Subject: President Obama Announces More Key Administration Posts

THE WHITE HOUSE
Office of the Press Secretary

FOR PLANNING PURPOSES ONLY
September 22, 2009

President Obama Announces More Key Administration Posts

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USCAN DRAFT DOCUMENT

Factsheet: Outcomes of Copenhagen

While much work remains, the Copenhagen Summit process has led to important steps forward by the United States and many countries around the world. Here are a few highlights of noteworthy developments. These developments are a meaningful start down the pathway to binding global agreement.

At 10:33, Copenhagen time, December 19, 2009, the nations approved the Copenhagen Accord. The new deal engages the United States with other developed and developing countries in an agreement that includes emission reductions, investments in clean technology and adaptation. Over the next years countries will submit their pollution targets, finalize the operational arrangements for short and long term finance that ramps up to at least \$100 Billion and work out accountability arrangements and move toward a legally binding agreement. While the deal is not as fair as it should be, not as ambitious as science recommends and not yet binding, it is much needed progress toward global cooperation on the most dangerous issue facing our world today.

Countries have until January 30th to submit their emissions reductions commitments. They are not done yet - there is much more work to do to protect us from dangerous climate change...

Unprecedented Public Support for Strong Climate Action

"Never has the world united on such a scale" – Ban Ki Moon, Dec. 18

- 125 Heads of state
- 45,000 summit attendees
- 100,000 marched in Copenhagen calling for strong action
- 13 million petition signers on the "tck, tck, tck" petition (www.tcktcktck.org, which calls for a fair, ambitious and binding agreement)

For the first time, the majority of the world's countries have offered to reduce their emissions, including but not limited to¹:

¹ World Resources Institute, 2009, Summary of GHG Reduction Pledges by

US – 17% by 2020 (below 2005 levels)
EU-20% by 2020 (below 1990)
China – 40-45% by 2020 (below 2005 levels, energy intensity)
India – 20-25% by 2020 (below 2005 levels, energy intensity)
Brazil – 21-25% by 2020 (below 2005 levels)
Indonesia – 26% by 2020 (below BAU)
Mexico – 50% by 2050 (below 2000)
South Africa – 34% by 2020 (below BAU)
South Korea – 4% by 2020 (below 2005)
Japan – 25% by 2020 (below 1990)

Architecture for a Program to Protect Forests: Agreement on the basic architecture and financing for international forest protection (Reductions in Emissions in Deforestation and Degradation (REDD)).

Transparency in Meeting Emissions Reductions: US and China have agreed to a method for international emission reduction reporting for all countries. This consists of a domestic legally binding system to report and verify carbon emissions reduction activities. Should the US or other countries have questions, they've agreed to an international process for validating the data.

Clean Technology for the Developing World: Agreement on a technology deployment mechanism with two elements: 1) a technology executive committee and 2) a climate technology center/network. They have also agreed on a short list of functions for the above two bodies.

China's Commitments:

- 40-45% below 2005 levels by 2020, Intensity target
- Increase non-fossil primary energy by 15%
- Increase level of forest cover and forest density
- 20% Energy Intensity Reduction Target over 5 years

Financial Commitments from US and other Countries:

Fast-start Financing: This process has resulted in general commitments being replaced by real dollar figures, providing money over the next 3 years:

Developing Countries

- The US has committed to our share of \$30 billion
- Japan has committed \$15 billion
- Others?

Financing for Forest Protection:

The US pledged \$1 billion over the next 3-years for REDD
Australia, France, Japan, Norway, UK and US combined pledged \$3.5 billion from 2010 to 2012

Clean Technology Deployment:

US Department of Energy's Climate Renewables and Efficiency Deployment Initiative (REDI) – \$350 million multi-lateral commitment over 5-years, of which \$85 million is from the US for the scaling up renewable energy via the following programs:

- Solar LED Energy Access Program
- Super efficient equipment and appliance deployment program
- Clean Energy information platform

Black Carbon (soot that harms public health and exacerbates climate change):

US EPA committed to \$5 million to reduce black carbon emissions.

Long-term Financing:

Secretary of State Hillary Clinton committed to contributing our share of a \$100 billion fund for adaption, forest protection, and mitigation.

Phase out of Fossil Fuels:

Secretary Locke reaffirmed commitment made at G20 to phase out of fossil fuels.

AN INITIAL ASSESSMENT OF THE COPENHAGEN OUTCOMES¹

Rob Fowler,

Law School,

University of South Australia

Has Copenhagen been a failure or a success? Whilst opinions inevitably will differ widely, the most likely answer is that the principal outcome – the Copenhagen Accord and two supporting decisions of the Parties to the COP 15 and CMP5 respectively - is neither. For many, the inability of the meeting to adopt a legally binding agreement or to address in detail many of the core issues on its agenda will be seized upon as clear evidence of failure. Others will draw comfort from the fact that the meeting did not collapse and managed at the very last moment to produce a political agreement that at least continues the negotiation process and contemplates the possibility of a binding agreement in one year's time. Proponents and opponents of national initiatives to address climate change will predictably choose the view that suits their wider agenda.

Consistent with the “glass half full” view, US President Obama said in his press conference before departing Copenhagen (whilst the meeting continued on for the rest of the night and well into the next day) that the Accord is a “first step” towards a new era of international action, whilst also acknowledging that much more work will need to be done to secure legally binding measures. In fact, the signals several weeks before the meeting were clear that no binding legal agreement was going to be possible in Copenhagen, given the lack of progress in the preparation of draft text by the two Working Groups assigned this task. It is therefore no surprise that the form of the outcome from Copenhagen is a political “accord” that lacks any formal legal status.

However, the Copenhagen Accord does contain some elements that can be argued to constitute a step forward from the current situation by providing for:

- (i) developed (Annex I) countries to identify by 31st January 2010 new commitments to be made by them with respect to emissions reductions by 2020 (cl.4 and Appendix I);
- (ii) the identification of nationally appropriate mitigation actions (NAMA's) by the non-Annex I (developing) countries other than the LDC's and small-island developing states – to be set out in an Appendix to the agreement that is to be completed at first instance by 31st January 2010 and which may be subsequently added to (see Cl.5 and Appendix

¹ This assessment was prepared by the author on 19-20 December 2010 in Copenhagen, initially whilst the meetings of the COP and CMP continued into the mid-afternoon of Saturday 19th December. The UNFCCC Secretariat posted on its web-site immediately after the meeting the provisional text (advance unedited versions) of all of the decisions made by the COP and CMP in Copenhagen; these are available at <http://unfccc.int/2860.php> . The Copenhagen Accord is available at: http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_cph_auv.pdf . For a summary of the key decisions of the COP/MCP, see Appendix 1 hereto.

- 2);
- (iii) a commitment by developed countries to contribute funding approaching US\$30 billion over the next three years to support both mitigation and adaptation activities in developing countries, with adaptation funding to be focused on the LDC's and small-island states;
- (iv) a commitment by developed countries to a goal of jointly mobilizing US\$100m per year by 2020 for mitigation action, conditional upon transparency with respect to the implementation of mitigation actions; and
- (v) the establishment of a High Level Panel to explore potential sources of revenue and the Copenhagen Green Climate Fund to support mitigation and adaptation projects under the Convention.

Two separate decisions of the meeting are also significant. The mandates of the AWG-LCA and the AWG-KP have been extended with requests to present the outcomes of their work to COP 16 and CMP 6 in Mexico City in December 2010². Despite indications by President Obama and others that the intention is to secure legally binding commitments in Mexico City, neither decision contains any reference to a legally binding instrument in the extended mandate granted to each Working Group. Some countries, including China, India and Saudi Arabia, objected to the inclusion of a reference to a “legally binding instrument” in the extended mandate for the AWG-LCA and as a result it was not included.

Despite the positive elements of the Accord and related decisions, a closer examination reveals that many of the key issues that it was hoped would be addressed in Copenhagen have been left unresolved. Indications are that this was due to the refusal of China and India in particular to accept many of the various proposals put forward on these matters³. In this respect, the Copenhagen meeting, which attracted the presence of 119 heads of state and was claimed to be the largest such gathering ever held outside by the United Nations, may have heralded a new global geo-politic in world affairs. It may also have brought into serious question the feasibility of the current consensus model for the negotiation of global agreements of the kind proposed with respect to climate change. An intensive negotiation process over two years, culminating in two weeks of frantic meetings often extending well into the night, managed to produce only an extremely modest outcome. It is therefore questionable whether a repeat of this process over the next 12 months will be any more productive or successful. However, at present, this is the only process open to Parties and it will therefore be likely to continue in the same way.

The following analysis summarizes the situation with respect to the more significant issues that were on the agenda in Copenhagen. It focuses in particular on the Copenhagen Accord and the two, related decisions of the COP/CMP.

(1) The legal status of the Copenhagen Accord

² See re AWG-LCA: http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_lca_auv.pdf and re AWG-KP: http://unfccc.int/files/meetings/cop_15/application/pdf/cmp5_awg_auv.pdf

³ This observation is purely “hearsay”, and is based on consultations by the author with observers who were close to the negotiations.

The exact status of the so-called “Copenhagen Accord” is unclear. It was reported to have been negotiated by a small group of parties (USA, China, India, Brazil and South Africa) and was then submitted to the COP with the intention that it would be agreed through a decision of the COP and become operational immediately. However, a small number of Parties (including Tuvalu, Bolivia, Venezuela and Pakistan) indicated that they could not support the Accord. As a result, and in order to avoid having to record dissenting votes, the COP decided simply to “take note” of the Accord. Parties to the Convention will be able to associate with the Accord subsequently (an “opt in” process) by having their names included in a chapeau to the document by the UNFCCC Secretariat. Thus, unlike other soft-law instruments such as the Rio Declaration that emerged from the Earth Summit in 1992, the Parties did not sign or adopt this instrument at the Copenhagen meeting.

This affords the Copenhagen Accord a unique status in international law, having emerged from, but not been adopted by, the conference. It most probably fails to achieve even the status of a “soft-law” instrument and thus constitutes the most minimal outcome conceivably possible from the Copenhagen meeting, short of a complete failure altogether.

This outcome is an indication of the huge challenge that faces negotiators over the next 12 months in pursuing binding legal commitments from the Parties. President Obama, in his remarks before leaving Copenhagen, noted that there is a “fundamental deadlock” in relation to the setting of binding targets, with further, legally-binding commitments from the Annex I countries being made dependent by them on corresponding commitments by the major developing economies, who in turn are unwilling to give such commitments. This issue will now have to be pursued through the further negotiations in the two AWG’s⁴, but almost certainly will not be resolved until the Parties reconvene at COP 16/CMP6.

(2) The legal form of future arrangements

The meeting has failed to resolve a core issue concerning the legal form or “architecture” for future arrangements. The United States and many other Annex I countries urged the replacement of the Kyoto Protocol with a new Protocol under the Convention that would include mitigation commitments for the United States and the major developing economies such as China, India and Brazil. This was met with fierce resistance by the G77 plus China, the Gulf countries and AOSIS, who all argued that the Annex I countries should continue to be bound by the Kyoto Protocol and set new targets for themselves under it. They proposed a “two-track” process involving both an amended Kyoto Protocol and a new instrument that would implement the key elements of the Bali Action Plan.

The Copenhagen Accord does not address this issue, simply noting that the undertakings provided in its Appendix I by Annex I parties “will thereby further strengthen the emissions reductions initiated by the Kyoto Protocol” (cl.4). It is therefore inevitable that this issue will have to await fresh consideration at COP 16 as it is most unlikely to be resolved through the deliberations of the AWG-KP over the next 12 months.

⁴ At present, the only meetings scheduled for the AWG-LCA and the AWG-KP are in a two week session in mid-2010, with COP 16/CMP 6 scheduled to be held in Mexico City from 29th November to 10th December 2010: see http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_dv_auf.pdf.

(3) Shared vision for long-term cooperative action

The Bali Action Plan called for “a shared vision for long-term cooperative action, including a long-term global goal for emissions reduction”. Proposals in the meeting envisaged the establishment of 2050 goals based on a limit in temperature increase (2° or 1.5° C), the stabilization of GHG concentrations (450 ppm CO₂-e or 350 ppm CO₂-e) and aggregate reductions in emissions (both a global goal and one for developed countries). None of these proposals were adopted, apparently due to objections by China and India in particular.

Instead, the Accord recognizes the scientific consensus based on the IPCC’s 4th Assessment report for a 2° C limit in global warming and calls for deep cuts in global emissions to achieve this goal (cl.2). However, it does not identify a global stabilization goal nor does it identify the desired level of reductions in global emissions by 2050. Thus, the meeting has failed to achieve any consensus on this important element of the Bali Action Plan and thereby leaves nations without the desirable direction required for them to set their own long-term targets.

The final clause of the Accord (cl.12) calls for a review of its implementation by 2015, including “consideration of strengthening the long-term goal referencing various matters presented by the science, including in relation to temperature rises of 1.5 degrees Celsius.” It is interesting to note the inclusion of a reference to the 1.5 degrees goal in the Accord, even if only in the context of a review from years from now.

(4) Mitigation Action – Developed Countries

The Bali Action Plan called for “measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties”. Proposals before the meeting envisaged the identification of a peaking year for developed country emissions, the setting of an aggregate interim target for emissions reductions (either for 2017 or 2020) and the making of fresh commitments by Annex I countries – either under the Kyoto Protocol or via a new instrument.

The Accord urges cooperation to ensure that emissions peak “as soon as possible”, but does not identify any aggregate interim target for emissions reductions. Thus, once again, the meeting has failed to give much-needed guidance to developed nations with respect to their overall level of ambition in relation to further commitments to emissions reductions. This leaves Annex I parties to formulate voluntary commitments for the period until 2020 by notifying the Secretariat of their targets for inclusion in Appendix 1 of the Accord (cl. 4). Any prospect of fresh, legally-binding commitments by Annex I parties has therefore been deferred to enable further discussion in the AWG’s during the next year, leading to a decision whether to amend the Kyoto Protocol at CMP 6 in Mexico City.

(5) Mitigation Action – Developing Countries

The Bali Action Plan calls for nationally appropriate mitigation actions (NAMA’s) by developing countries

but makes no reference to the need for these to be legally binding. Since its adoption, considerable pressure has been exerted by developed countries on the major developing economies (including China, India and Brazil) to make firm commitments with respect to mitigation – for example, to limit emissions until 2020 to 15-30% below business as usual. This issue proved to be the most significant sticking point in relation to the conclusion of the Copenhagen Accord, and was closely linked to the related call by developed countries for such commitments to be measurable, reportable and verifiable (as called for in the Bali Action Plan).

Clause 5 of the Accord commits developing countries other than the LDC's and small-island states to undertake NAMA's and allows them to submit these for inclusion under Appendix II of the Accord. This may be done by notifying proposed actions to the Conference Secretariat by 31st January 2010, or subsequently through a two-yearly reporting cycle. However, there is no provision in the Accord for any form of aggregate or individual mitigation target for non-Annex I countries.

(6) Transparency re mitigation actions ("measurable, reportable and verifiable")

The Bali Action Plan called for all mitigation commitments by both developed and developing countries to be "measurable, reportable and verifiable". This proved to be a contentious issue for some developing countries, who resisted sternly all efforts by developed countries to impose any international obligations on them in this regard.

Clause 5 of the Accord provides that all mitigation actions undertaken by non-Annex I parties will be subject to "domestic measurement, reporting and verification" but will also be subject to "international consultations and analysis" under guidelines to be developed concerning National Communications on the implementation of NAMA's⁵. In addition, mitigation actions that have "international support" are to be recorded in a register and will be subject to international measurement, reporting and verification under guidelines to be developed by the Conference of the Parties. Thus, two types of accounting requirements will apply to developing country NAMA's, each of which is dependent on the development of new guidelines. There will inevitably be some delay therefore in these provisions coming into operation whilst the relevant guidelines are developed.

It remains to be seen whether developing countries will elect to nominate their voluntary actions to Appendix II of the Accord, either by the January 31st 2010 deadline or subsequently. There is no language in the Accord that suggests any obligation to do so, and it is may be that some developing countries will decline to do so in order to avoid the proposed "international consultations and analysis" that would then be required.

(7) Finance for mitigation and assessment

⁵ It should be noted in this context that the COP adopted a decision on National Communications by Non-Annex I Parties: see http://unfccc.int/files/meetings/application/pdf/cop15_cge_auv.pdf

In response to the Bali Action Plan calls for enhanced financial resources for mitigation and adaptation, the Copenhagen Accord expresses a collective commitment by developed countries in clause 8 to provide new and additional resources approaching US\$30 billion over the period 2010-2012. In addition, it commits developing countries to jointly mobilizing US\$100 billion per year by 2020 for mitigation action “in the context of meaningful mitigation actions and transparency on implementation”. Also, new long-term funding for adaptation is to come from “effective and efficient fund arrangements with a governance structure providing for equal representation for developed and developing countries”.

The Accord calls for the establishment of a Copenhagen Green Climate Fund and identifies this Fund as a significant source of long-term adaptation funds; it will also be available to support mitigation, technology transfer and capacity-building. The Fund is to operate under the financial mechanism established under the Convention. In addition, a High Level Panel is to be established under the COP to study potential sources of revenue related to the above goals. Given the failure of the COP/CMP to actually adopt the Accord, and hence authorize these particular decisions within the Accord, it may be necessary to wait another 12 months for appropriate decisions to be taken formally in Mexico City to give effect to these particular proposals.

Japan and the European Union have each made significant commitments recently that will provide over two-thirds of the proposed “short-term” funds, with the USA also committing US\$3.6 billion for this period. The longer term commitment is clearly conditional on transparency re the relevant mitigation actions, which presumably will be sought through the proposed registry of “supported” NAMA’s and associated guidelines described above.

Despite some assertions from developing countries that these proposals are still seriously inadequate, they represent an important break-through on the difficult issue of finance. Whether, and how, the relevant funds will be assembled, and whether they will in fact be new and additional to existing sources, are all matters that remain to be seen.

(8) Other matters

The Agenda for COP15/CMP5 contained many other matters of considerable importance – for example, in relation to adaptation; LULUCF (land use, land use change and forestry); REDD (reducing emissions from deforestation and forest degradation); the CDM (Clean Development Mechanism) and the other Flexible Instruments under the Kyoto Protocol; the treatment of emissions from bunker fuels used in aviation and shipping; further development of the carbon market; technology transfer and capacity-building; and the promotion of sectoral approaches to mitigation. Some of these matters were able to be addressed to varying degrees through decisions of the COP and CMP⁶ and the full effect of these decisions will have to await analysis of the text subsequently. An initial survey of these decisions

⁶ See the list of key decisions presented in Appendix 1.

suggests that the only developments of some note have been in relation to REDD (under the COP) and the CDM and Joint Implementation mechanisms (under the CMP), but that even these decisions are largely of an agenda-setting nature for further work and do not address any of the major issues requiring resolution through the development of new rules (particularly re REDD and the CDM). The reality is that, with only a few exceptions, most of the draft decisions under consideration in the AWG-KP and AWG-LCA on these matters were heavily bracketed or subject to different options and were not ready to be transmitted to the plenary sessions for consideration. This means that there is a very heavy workload over the next 12 months for the two Working Groups under their extended mandates.

The Copenhagen Accord also has dealt with some of these matters, but mostly in a quite general manner, given they were subsidiary in relevance and importance to those which have been analyzed above. The Accord contains a clause on adaptation (cl.3) which commits developed countries to providing adequate, predictable and sustainable resources to developing countries, with a particular focus on LDC's, small-island developing states and Africa. The financial proposals give some further weight to this commitment. There is also an agreement to introduce new mechanisms, including REDD-plus, to address the problem of deforestation (cl. 6) and an endorsement of markets as a mechanism to enhance the cost-effectiveness of, and promote, mitigation (cl.7). However, the necessary guidance on these matters must await further decisions of the COP. In relation to technology transfer, the Accord provides for the establishment of a Technology Mechanism to accelerate technology development and transfer (cl.12). How this Mechanism will operate in practice once again remains to be seen.

This inability of the Copenhagen meeting to fully and adequately address all of the above matters represents a significant set-back for the improvement of the current international climate change legal system, in particular in the related areas of LULUCF, REDD and the CDM. It was hoped that there would be substantial advancement of the often complex measures that need to be developed in relation to these topics, so the failure to achieve this is a significant set-back.

CONCLUSIONS

As noted at the outset of this assessment of the Copenhagen outcomes, any judgment as to their adequacy will be conditioned by the expectations and perspectives of those involved in such an exercise. Given the emerging scientific evidence that urgent and quite radical action is required to avoid dangerous climate change, it is difficult to take much comfort from the results of the Copenhagen meeting. There are some small advances towards new and binding mitigation targets for both developed countries and those with major developing economies, some new commitments and proposals with respect to finance, and some new expectations with respect to transparency. These are all to be welcomed, but the fact that the Accord does not even have the status of having been adopted through a decision of the Parties means that they have absolutely no legal status. Some other elements of the Accord, such as the proposals for guidelines on transparency and to establish the financial and technology transfer institutional arrangements, will depend on further decisions of the COP and therefore are not able to become "immediately operational" in the manner provided for in the preamble to the draft Accord due to the decision of the COP simply to "note" the Accord.

In almost every other respect there has been a failure to achieve consensus in Copenhagen. Core issues such as the future of the Kyoto Protocol, the long-term goal for emissions reduction, and the aggregate and individual goals for emissions reductions by 2020 have not been resolved and an entire additional layer of issues, including LULUCF, REDD, the CDM and bunker fuels have not been able to be fully addressed either.

All of this means that there is now a further, long and arduous road to be travelled over the next 12 months, both for negotiators and those who are engaged in urging effective international action on climate change. Negotiation fatigue is a real danger, as is the risk of a decline in community concern and interest in the issue of climate change. Those countries, such as the USA and Australia, that are seeking to develop new national measures based on a “cap and trade” approach, will face additional opposition from those who will portray Copenhagen as a failure. On the other hand, the widespread disillusionment and disaffection with the international negotiation process felt by many activists, as evidenced vividly in demonstrations during the Copenhagen meeting, might translate into even stronger community pressure on politicians to come up with measures, both nationally and internationally, that will help to avert dangerous climate change. In short, we appear to be destined for much more of the same divisive and intense debate for at least another year in light of the relatively weak outcomes from Copenhagen.

Copenhagen, 20th December 2009.

APPENDIX I: COPENHAGEN DECISIONS AND DOCUMENTS

Note: all decisions of COP 15 and CMP 5 are available on the UNFCCC web-site at: <http://unfccc.int/2860.php> . The following is a listing and brief description of the most significant decisions taken in Copenhagen, including with respect to the “Copenhagen Accord”.

Key Decisions of COP 15:

1. To “note” the Copenhagen Accord (as appended to this decision):
http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_cph_auv.pdf
2. To extend mandate of AWG-LCA:
http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_lca_auv.pdf
3. Re REDD (promoting further guidance and guidelines on the estimation of sources and sinks):
http://unfccc.int/files/na/application/pdf/cop15_ddc_auv.pdf
4. Re National Communications by Non-Annex I Parties (extends mandate of Consultative Group of Experts for another 2 years):
http://unfccc.int/files/meetings/application/pdf/cop15_cge_auv.pdf
5. Re capacity-building (Subsidiary Body on Implementation to continue its work):
http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_cb_auv.pdf

Key Decisions of CMP 5:

1. To extend mandate of AWG-KP:
http://unfccc.int/files/meetings/cop_15/application/pdf/cmp5_awg_auv.pdf
2. Re Clean Development Mechanism (no new rules but extended work program for Executive Board of CDM re improving transparency, efficiency and impartiality; development of baseline and measuring methodologies for under-represented activities and regions; further work on guidance re additionality; and also mentions but does not adopt CCS)
http://unfccc.int/files/meetings/cop_15/application/pdf/cmp5_cdm_auv.pdf
3. Re Joint Implementation (Article 6) (adopts revised rules of procedure; urges further work by JI Supervisory Committee on accrediting independent entities, enhancing verification procedures and considering concepts of materiality and level of assurance within the guidelines):
http://unfccc.int/files/meetings/cop_15/application/pdf/cmp5_ji_auv.pdf
4. Re Capacity-building under KP (SBI to continue its work):
http://unfccc.int/files/meetings/cop_15/application/pdf/cmp5_cb_auv.pdf



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF MOBILE SOURCES
ANN ARBOR, MICHIGAN 48105

2008 MODEL YEAR

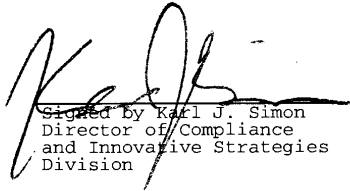
Office of
Transportation
and Air Quality

CERTIFICATE OF CONFORMITY
WITH THE CLEAN AIR ACT OF 1990 ISSUED TO:

Tesla Motors Inc.
MANUFACTURER

TSL-ZEV-T2-2008-01-02
CERTIFICATE NO.

January 16, 2008
EFFECTIVE DATE


Signed by Karl J. Simon
Director of Compliance
and Innovative Strategies
Division

Test Group: 8TSLV00.056C Evaporative/Refueling Family: N/A

Applicable Emission Standards: Tier 2: Bin 1

Date Issued: January 16, 2008

Revised: March 20, 2008

Vehicle Description: Battery Electric Vehicle, 185 kW 3-phase AC induction motor, single speed or two speed transmission, regenerative braking system, 375 volt lithium-ion battery.

Test Fuel Type: Battery Electric

Full Useful Life Miles: 120,000 miles

Models Covered: Tesla Roadster

Pursuant to section 206 of the Clean Air Act (42 U.S.C. 7525) and 40 CFR Part 86, this certificate of conformity is hereby issued with respect to test vehicles which have been found to conform to the requirements of the regulations on Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines (40 CFR Part 86) and which represent the new motor vehicle models listed above by test group and evaporative/refueling emission family, more fully described in the application of the above named manufacturer. Vehicles covered by this certificate have demonstrated compliance with the applicable emission standards as more fully described in the manufacturer's application. This certificate covers the above models, which are designed to meet the applicable emission standards specified in 40 CFR Part 86 at both high and low altitude as applicable.

EPA is issuing this certificate subject to the conditions and provisions of 40 CFR 86.1848(c).

This certificate of conformity covers only those new motor vehicles that conform, in all material respects, to the design specifications that applied to those vehicles described in the documentation required by 40 CFR Part 86 and which are produced during the 2008 model year production period stated on this certificate of the said manufacturer, as defined in 40 CFR Part 86. The manufacturer shall obtain the approval of the California Air Resources Board (in the form of an Executive Order issued by the California Air Resources Board) prior to introducing any vehicle covered by this certificate into commerce 1) in the State of California, or 2) in a state that, under the authority of Section 177 of the Clean Air Act, has adopted and placed into effect the California standards to which this test group has been certified.

In the case of completely assembled vehicles, this certificate of conformity covers only those vehicles that are completely manufactured prior to January 1, 2009. Normally incompletely assembled vehicles (such as cab chassis) may be completed after this date, provided that the basic manufacturer (including installation of any applicable emission control system) was completed prior to January 1, 2009.

This certificate does not cover vehicles or engines sold, offered for sale, or introduced, or delivered for introduction, into commerce in the U.S. prior to the effective date of the certificate.

EPA-0013430003211-0001

Office of the Federal Coordinator for Gulf Coast Rebuilding
Weekly Update 12/18/2009

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Dear Friends and Colleagues,

I wanted to let you know that this is GCR's last update of 2009. So let me take this opportunity to wish you all a happy new year, and thank you for all of your work over the past few months.

As you all know, GCR is winding down operations and regularly working with all of you to transition stakeholders and challenges that still remain in the Gulf Coast into regular federal operations. Our office officially sunsets on April 1, and to ensure we continue to support federal efforts until that time, we will continue our updates every other week through our closure starting at the beginning of the new year.

Again, thank you for all of your efforts and I wish you a happy new year!

Sincerely,
Janet Woodka
Federal Coordinator for Gulf Coast Rebuilding

- Twelve of the thirteen candidates for Mayor of New Orleans participated in the first mayoral debate on Tuesday, December 15. The debate was spirited, and the major topics were crime, blight and the city budget. Leslie Jacobs, former BESE member and education advocate, announced her withdrawal from the race on Wednesday, December 16. She is the first to drop out of the running and cited Lt. Gov. Mitch Landrieu's entry into the race as a reason for her withdrawal.
- On Wednesday, December 16, FEMA announced that Tony Russell, the head of the Transitional Recovery Office in New Orleans, had been promoted to head of Region 6 (Texas, Oklahoma, New Mexico, Arkansas and Louisiana). The move was covered by the Associated Press, New Orleans Times-Picayune, and local outlets – all were positive regarding Russell's tenure. Deputy Mark Landry will run the TRO on an interim basis.
- On Monday, December 14, the U.S. Census opened an office in New Orleans, to ensure an accurate count of residents. The 2010 census has been a contentious issue in the press, with Mayor Ray Nagin urging former residents who plan to move back to New Orleans at some point to record themselves as residents, despite federal policy, and St. Bernard Parish President Craig Taffaro encouraging those rebuilding their homes

- to stay with friends or relatives in the Parish on April 1 so they can be counted.
- Federal Coordinator Janet Woodka and Lynn Overmann from the Department of Justice traveled to New Orleans to meet with criminal justice officials and stakeholders, including US Attorney Jim Letten, DA Leon Cannizzaro, Public Defender Derwyn Bunton, Criminal Sheriff Marlin Gusman, the New Orleans Crime Coalition, Jon Wool from the Vera Institute, and City Councilmember James Carter. They had productive discussions on how the federal government can support local efforts to rebuild the criminal justice system.
- GCR Chief of Staff Moira Whelan traveled to New Orleans and met with local stakeholders regarding the Universal Periodic Review. Through the UN Human Rights Council's (HRC) Universal Periodic Review (UPR) process, the human rights record of each UN Member State is reviewed once every four years. It provides an opportunity for each State to discuss its domestic human rights situation, identify measures taken to improve the situation, and address challenges faced by the State. In 2010, the United States will submit its first UPR, a 20-page report. The State Department has the lead on the process and is planning a nationwide series of events to meet with locals and discuss challenges in areas including Phoenix, San Francisco, Chicago, Dearborn, etc. The roadshow will kick off in New Orleans in January. They have requested GCR's assistance in planning the January trip. Moira Whelan met with Jim Kelly of Catholic Charities; Timolynn Sams of NPN; the Equity and Inclusion Campaign; and noted civil rights attorney Mary Howell to discuss planning issues including venues, itineraries, persons of interest, etc.
- On December 15, the staff of the Louisiana Mississippi Gulf Coast Ecosystem Working Group met to discuss the feedback from the recent trip to the Gulf Coast and the path forward, including next steps in creating a work plan for the group. Next week's meeting will include a briefing with Garret Graves, the La. Governor's advisor on coastal affairs and a review of a number of policy and implementation challenges for potential inclusion in the work plan.
- GCR staff met with Jim Harlan and Dr. Ivor Van Heerden regarding coastal restoration and hurricane protection issues in Louisiana.
- The Saints continue to be undefeated, and are now at 13-0 having most recently beaten the Atlanta Falcons. This week, they play the Dallas Cowboys - Geaux Saints!

Comings and Goings

- Vice President Joe Biden committed in an August 24 New Orleans Times Picayune article that he would visit New Orleans after the President's trip, likely "just before the end of the year or just after the first of the year."

Forthcoming

- A GAO report on Gulf Coast Rebuilding and housing issues in the Gulf Coast is expected to be issued in December.

- A new Elementary School will open January 4, 2010 in the Broadmoor neighborhood, home to LaToya Cantrell, the Landrieu family, and Walter Isaacson. The students have begun a letter-writing campaign to request First Lady Michelle Obama's participation in celebrating the opening on January 28th.
- The National Fusion Center Conference will be held in New Orleans in February, 2010.
- GNO Inc will hold its Annual Meeting March 9th, 2010 focusing on GNO Inc 2.0's transformation of a city. They are looking for a cabinet-level keynote speaker.
- 2010 National Interagency Community Reinvestment Conference, co-sponsored by the CDFI Fund, will be held in New Orleans March 14-18, 2010. The conference is historically held on the West Coast, but organizers switched the venue to New Orleans for 2010 to shed light on the ongoing need for financial resources in the Gulf Coast Region.
- Idea Village is sponsoring a Social Entrepreneurship Week March 20th - 27th, 2010 and is looking for federal participation.
- In May, 2010, the inaugural World Delta Dialogue will be convened in the Mississippi River Delta - New Orleans, Louisiana.
- On June 8 – 10, 2010 the Louisiana Office of Coastal Protection and Restoration, the US Army Corps of Engineers, the Coalition to Restore Coastal Louisiana and many others have partnered together to host the State of the Coast (SOC) Conference. The conference will consist of three full days of presentations by leading experts in concurrent sessions, café and beignet sessions, keynote speakers, coastal policy plenary session, poster sessions and social networking opportunities focusing on implementing a sustainable coast for Louisiana.



Mountaintop Mining and Valley Fills & Water Quality Advisory Level for Conductivity

INTERNAL DELIBERATIVE MATERIALS

December 22, 2009

Deliberative

Deliberative

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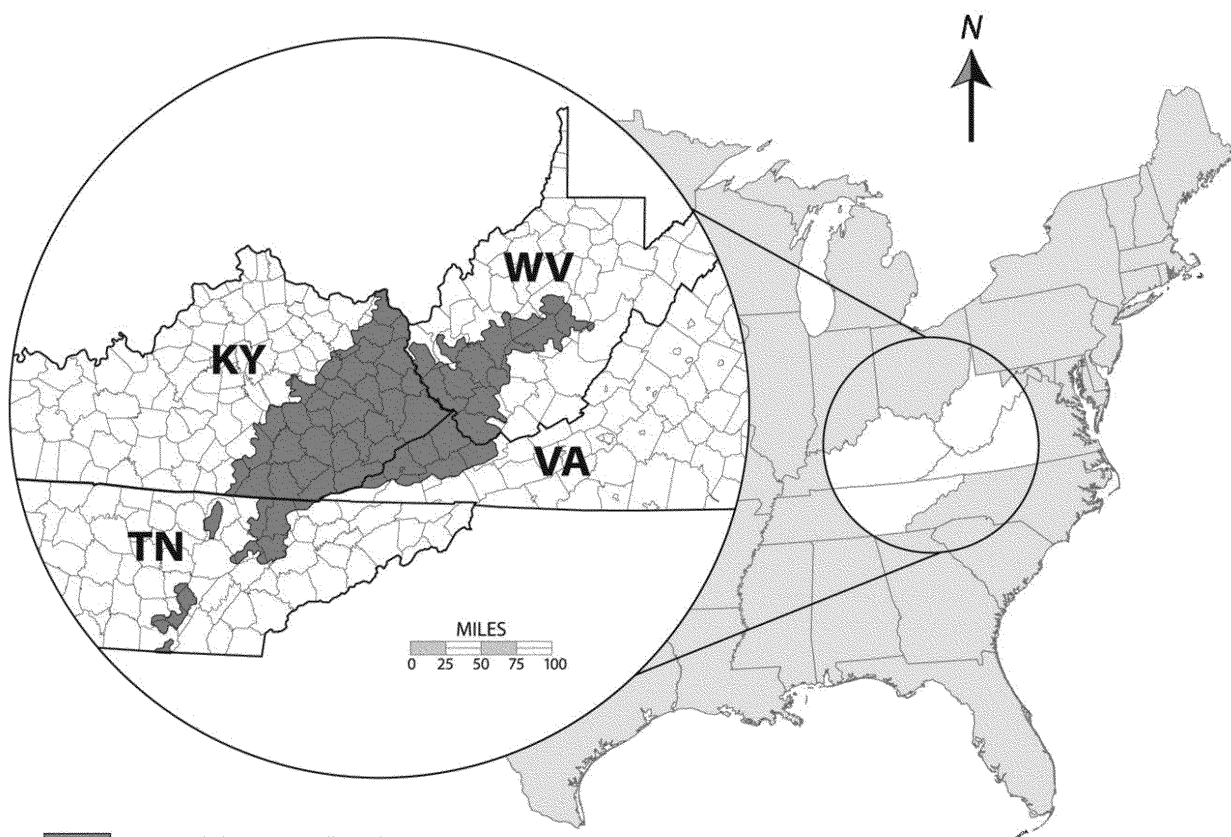
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Additional Slides

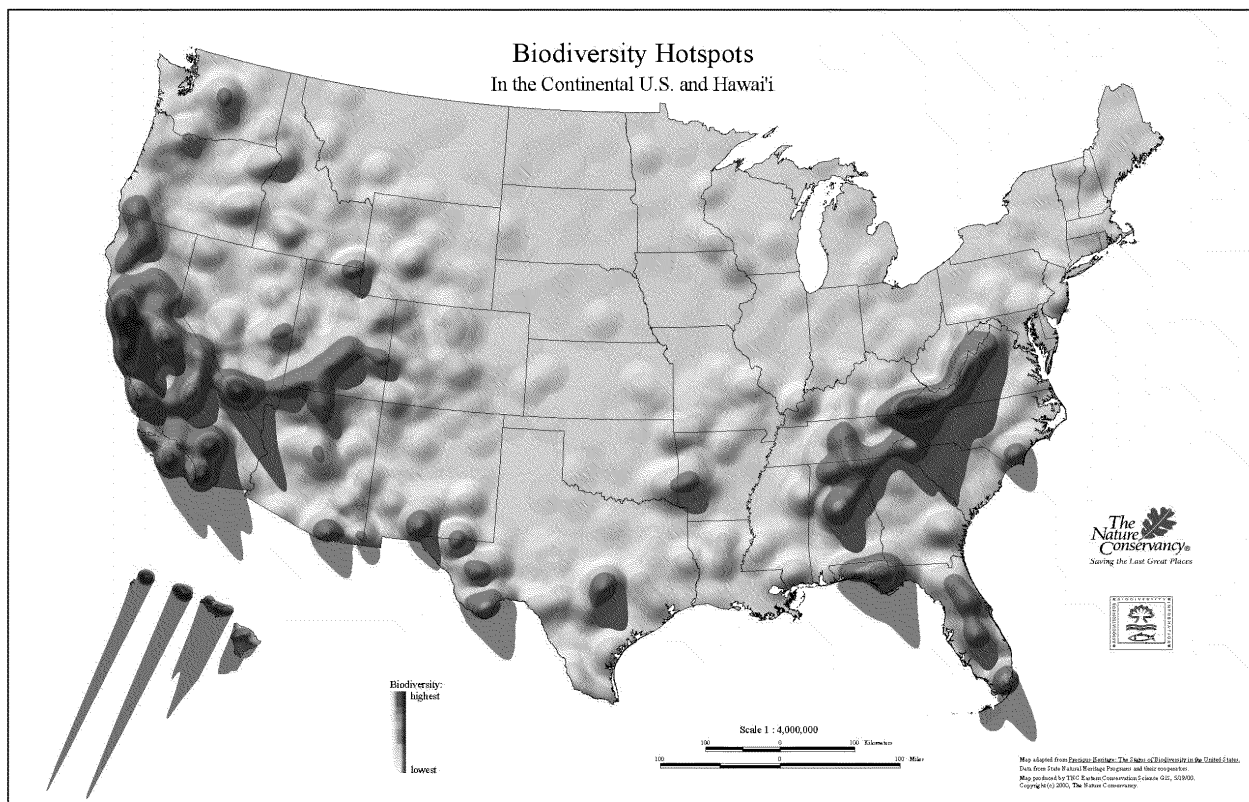
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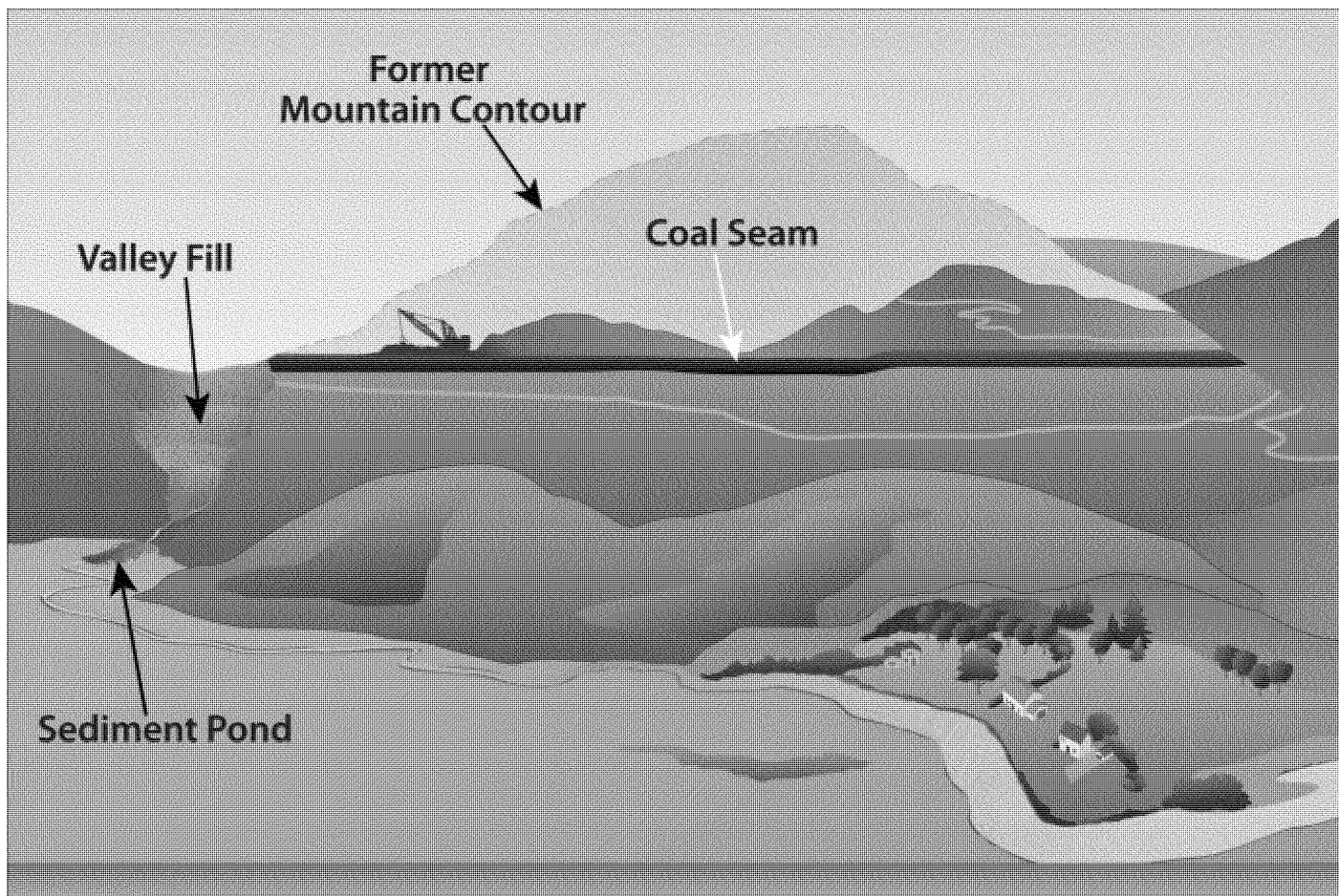
Central Appalachian Coalfields

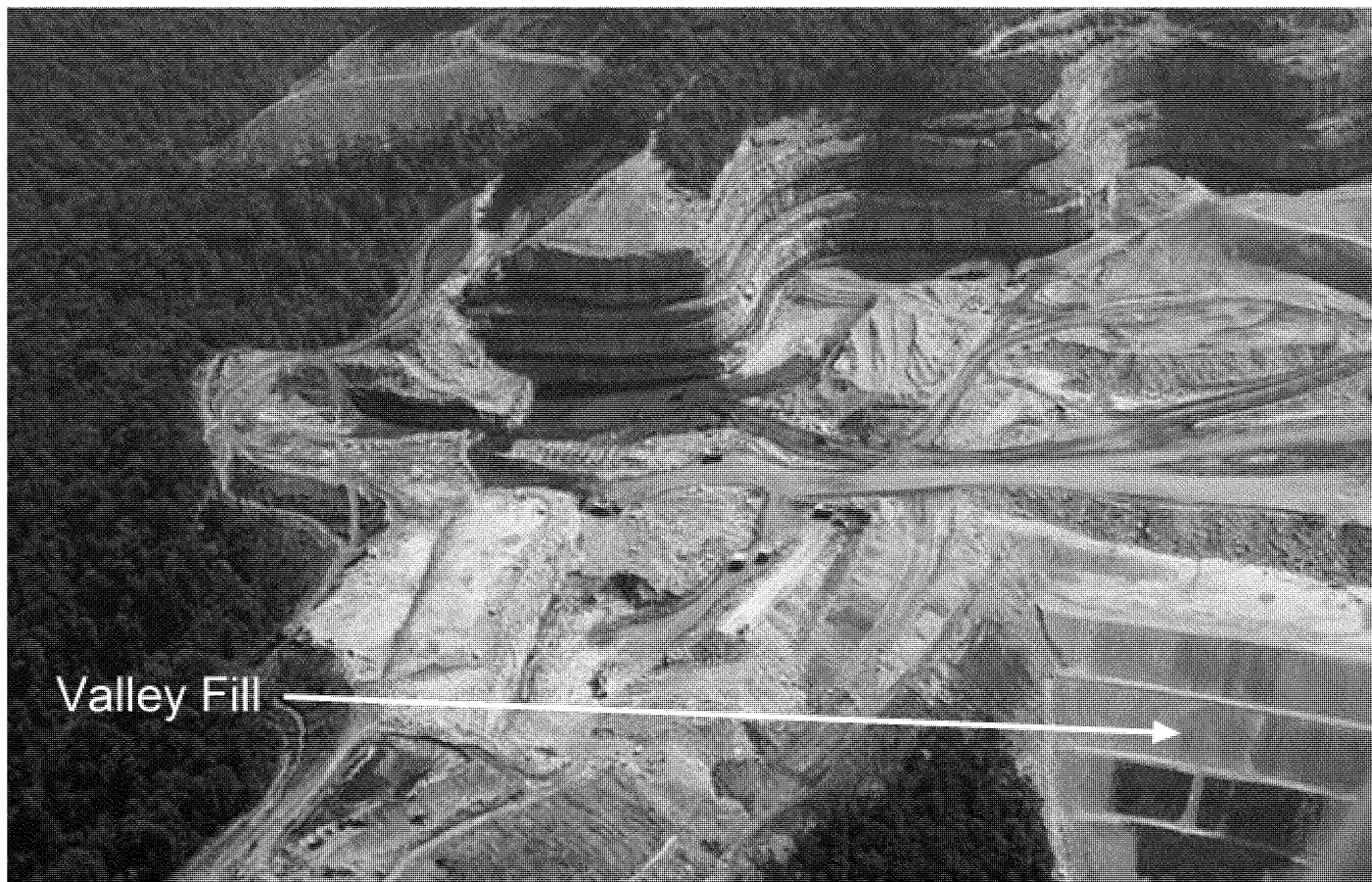
State Boundaries

County Boundaries

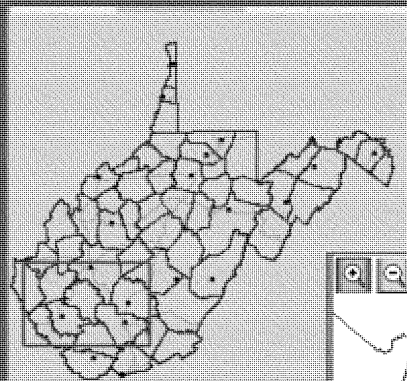


The Central Appalachian Mountains have been identified as a significant region of biological diversity in the continental United States.

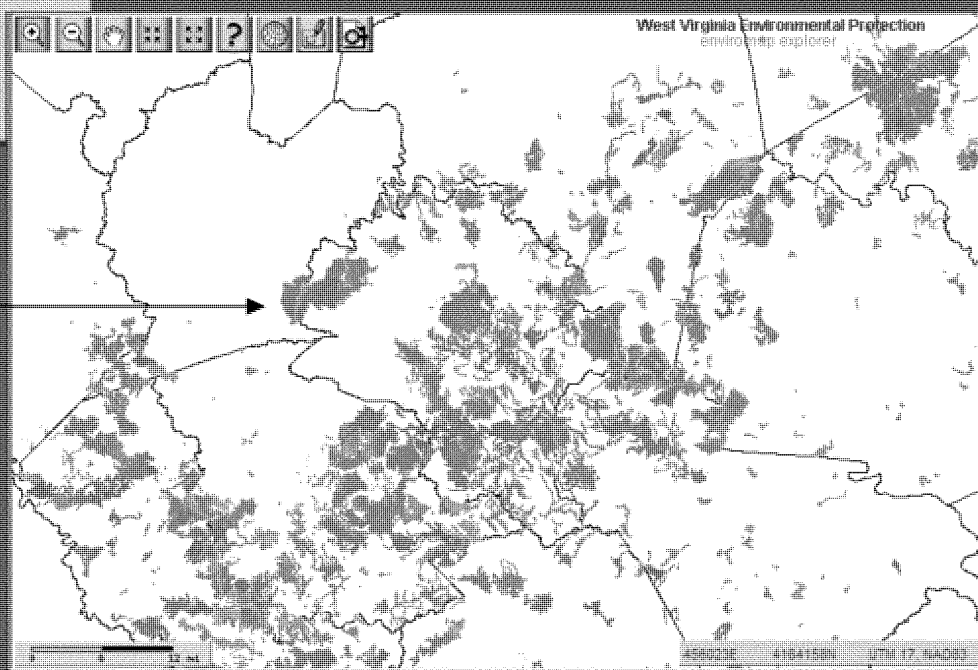




Mining Permit Boundaries in Southwestern WV



Hobet mine



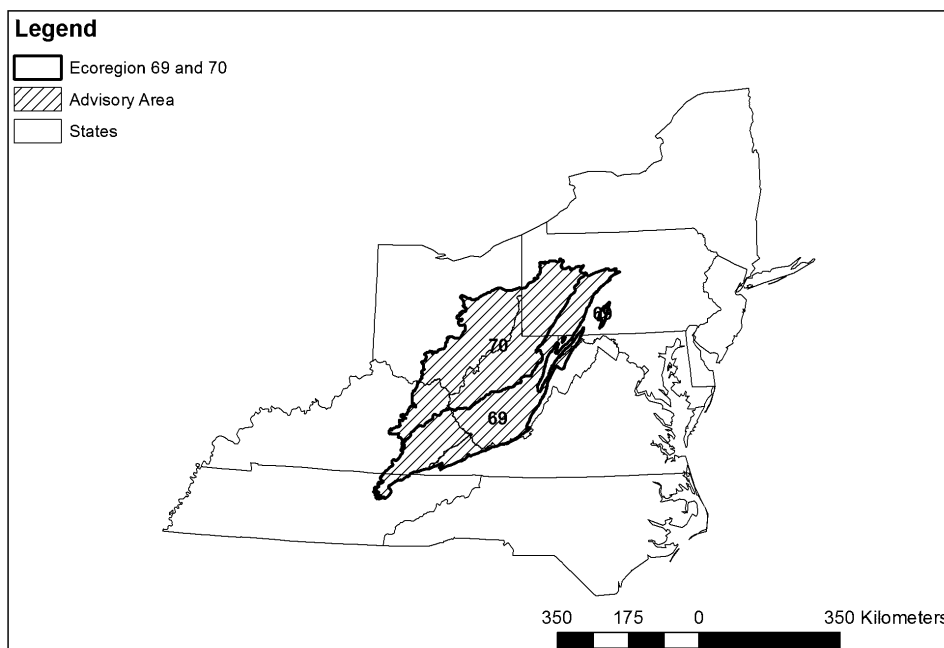
Source:

, accessed 10/27/2009



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Omernik Level III Ecoregions 69 and 70



Data Sources: State Outlines from U.S. EPA Base Map Shapefile
Omernik Level III Ecoregions from National Atlas
(NationalAtlas.gov)
Projection: NAD 1983 UTM 17 N
Map made December 9, 2009 by Michael McManus

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